

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

February 14, 1995

TRANSMITTAL CIRCULAR 90-10 -- 1990 LOOSELEAF EDITION
FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATION

Contents

- Item I Amendment 2--Amendment of miscellaneous
 FIRMR provisions
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 Relating to FIRMR Applicability, FIRMR Bulletins,
 and Present Value Analysis
- Item III Appendix C, List of Current Issuances--Updated
 pages

Explanations

- Item I **SUMMARY:** This document amends Federal Information
(Amdt. II) Resources Management Regulation (FIRMR) provisions
 with regard to: updating General Services
 Administration (GSA) offices and symbols; changing
 the definition of "performance validation";
 providing GSA advance notice of agency offices
 authorized to submit agency procurement requests;
 clarifying delegation of procurement authority (DPA)
 requirements for using GSA's Information Resources
 Management Service (IRMS) contracts programs and
 services; clarifying provisions regarding DPAs,
 including acquisitions when an agency uses the Small
 Business Administration's (SBA's) 8(a) Program for
 Federal information processing (FIP) resources;
 changing procedures for obtaining exceptions to the
 use of FTS2000 and clarifying that determinations
 regarding whether the FTS2000 network will be used in
 an acquisition is subject to GSA approval; and
 changing the Purchase of Telecommunications Services
 (POTS) Program from a mandatory-for-use program to a
 nonmandatory program.

EFFECTIVE DATE: This rule is effective December
30, 1994

Date Filed _____ Filed By _____

SUPPLEMENTARY INFORMATION: (1) Notices of proposed rulemaking (NPRs) were published in the FEDERAL REGISTER (FR) on September 21 and December 7, 1993 proposing various amendments to several sections of the FIRMR. The September 21 FR notice contained proposed amendments regarding acquisitions to be issued through SBA's 8(a) Program and regarding procedures when using GSA's nonmandatory schedule contracts. The December 7 FR notice contained other miscellaneous changes as noted in the Summary above, including provisions regarding the use by one agency of another agency's contracts for FIP resources. Changes in the December 7 FR notice regarding nonmandatory schedules, the Federal IRM Rev Program, and the use of other agency contracts (except for contracts and services provided by GSA/IRMS) will be covered in a separate amendment. To expedite issuance all other amendments are combined in this final rule.

(2) Explanations of the changes made by this amendment are shown below:

(a) Various sections of the FIRMR are amended to update GSA offices and symbols.

(b) FIRMR part 201-4 is amended to change the definition of "performance validation" to reflect that benchmarking is not the only method of validation. FIRMR Bulletin C-4 is also being revised to reflect this change.

(c) Section 201-20.305(a) is amended to require agencies to provide GSA the position title and organizational identity of offices authorized to submit agency procurement requests for DPAs.

(d) Section 201-20.305-1 is amended to clarify that a delegation is not required for FIP supplies even though they may be part of an acquisition that contains other FIP resources. It will serve to correct an error in FIRMR Interim Rule 2 appearing in the October 24, 1994 Federal Register.

(e) Section 201-20.305-1 is also amended to clarify that, when an agency elects to use SBA's 8(a) Program to acquire FIP resources, the FIRMR policies and delegation thresholds for obtaining DPAs apply. This final rule is responsive to agencies' concerns about when the DPA thresholds apply; explains the difference between a requirement "available from only one responsible source

and a "sole source" acquisition issued under SBA's 8(a) Program; and explains that the thresholds apply to all FIP resource acquisitions (including indefinite delivery, indefinite quantity contracts). The FAR contains general policies that apply to all acquisitions. The FIRMR, which is the primary regulation for FIP acquisitions, contains policies and procedures that are unique to FIP resources. In acquiring FIP resources, acquisition personnel must follow the policies and procedures in the FAR except in those areas where the FIRMR prescribes special policies and procedures. This applies to acquisitions using SBA's 8(a) Program for FIP resources. To apply DPA thresholds to acquisitions conducted through SBA, an agency needs to determine if the requirement is (i) a specific make and model, or (ii) a requirement for which only one source of supply or service exists. If a requirement fits into either of these categories, a delegation is required if the value of combined FIP resources (including optional periods and quantities) exceeds the regulatory delegation threshold established in the FIRMR for the agency for a specific make and model or a requirement available from only one responsible source, unless the agency has a specific agency delegation at a different level. In all other cases, the higher regulatory delegation threshold established for the agency applies, unless the agency has a specific agency delegation at a different level.

(f) Section 201-24.101-3 is amended to (i) provide a new address to which requests for exceptions to the use of FTS2000 are submitted, and (ii) clarify procedures when an agency's intercity telecommunications may fall outside the scope of FTS2000. Requirements for intercity telecommunications within the United States, Guam, Puerto Rico, or the Virgin Islands must be submitted to GSA for inclusion in the FTS2000 program or for a final determination as to whether a requirement is outside the scope of FTS2000. The changes will ensure that agencies follow appropriate procedures when acquiring intercity telecommunications services. is outside the scope of FTS2000. The changes will ensure that agencies follow appropriate procedures when acquiring intercity telecommunications services. Or for a final determination as to whether a requirement is outside the scope of FTS2000. The changes will ensure that agencies follow appropriate procedures when acquiring intercity telecommunications services.

(g) Section 201-24.104 is deleted to remove the POTS Program from GSA's mandatory programs. Agencies are encouraged to consider use of POTS, since the contracts are competed and provide cost-effective services. The change allows flexibility to agencies to acquire telecommunications resources that are most advantageous to their individual needs.

(h) Subpart 201-39.8 is amended to remove provisions that require mandatory use of the POTS contracts. The POTS contracts are available for use on a nonmandatory basis as an optional source of supply. The name of the program is changed to "Purchase of Telecommunications Services."

Item II
(Amdt. III)

SUMMARY: This document amends the Federal Information Resources Management Regulation (FIRMR) regarding: FIRMR applicability provisions relating to the replacement of embedded Federal information processing (FIP) resources, the delivery of small or inconsequential quantities of FIP resources under non-FIP procurements, and the availability of guidance on interpreting FIRMR applicability provisions; the nonmandatory nature of FIRMR bulletins; and the use of OMB Circular A-94 in performing present value analysis when evaluating bids and proposals.

EFFECTIVE DATE: January 23, 1995

FOR FURTHER INFORMATION CONTACT: Walt MacDermid,
telephone FTS/Commercial (202) 501-3194 (v) or
(202) 501-0657(tdd).

SUPPLEMENTARY INFORMATION: (1) This amendment was published in a notice of proposed rulemaking in the January 3, 1994 issue of the FEDERAL REGISTER. All comments were considered and, where possible, were incorporated into the amendment.

(2) Explanations of the amendments follow:

(a) Part 201-1 and subpart 201-39.1 are amended to be responsive to agency concerns that the replacement of FIP resources that initially were excepted from FIRMR applicability as embedded FIP equipment should also be excepted. Since the FIP resources would be used in the same manner as used initially, the amendment grants an exception to FIRMR applicability for the replacement o

any FIP equipment, software, or related supplies used in the embedded FIP equipment that has already been granted an exception under § 201-1.002-2(e), regardless of the cost of the replacement resources. This change also clarifies that the criteria for excepting embedded FIP equipment applies to an individual product and not to all the products being acquired.

(b) Part 201-1 and subpart 201-39.1 are also amended to provide an exception to FIRMR applicability for small amounts of FIP resources that will be delivered to the Government when an acquisition is primarily for other purposes and the FIP resources constitute a minimal or insignificant part of the contract. Currently, the FIRMR applies to all FIP resources delivered to a Federal agency or users designated by the agency, no matter how minimal. Given the legislative exceptions for FIP resources that are not "significant" or are "incidental to the performance of a Federal contract," GSA believes that a FIRMR exception is appropriate for acquisitions of FIP resources with a relatively low dollar value when the principal purpose of the solicitation or contract is for non-FIP resources. Accordingly, the FIRMR is being revised to except such acquisitions when the value of the FIP resources does not exceed \$500,000 or where the resources are of little consequence to the major purpose of the contract.

(c) A new § 201-1.002-3 is being added to show that guidance on understanding FIRMR applicability provisions is available in FIRMR Bulletin A-1.

(d) Subpart 201-3.001 is being amended to explain the nonmandatory nature of FIRMR bulletins. There is a perception, among some users of the FIRMR, that FIRMR bulletins are regulatory in nature. While there may be a few procedures in FIRMR bulletins that may need to be complied with to be in consonance with the regulation, FIRMR bulletins are not regulatory. They are issued to provide information and guidance that helps agencies acquire or manage FIP resources, explain procedures for using GSA programs, and assist in interpreting the provisions of the Brooks Act. provide information and guidance that helps agencies acquire or manage FIP resources, explain procedures for using GSA programs, and assist in interpreting the provisions of the Brooks Act.

(e) Sections 201-20.203-2, 201-39.14-1, and 201-39.1501-1 are amended to reflect the fact that OMB Circular No. A-94 should now be used not only as the basis of analyzing the cost of alternatives when doing analyses of alternatives, but also in calculating bid and proposal prices/costs. OMB Circular A-94 replaces the guidance in OMB Circular A-104, used previously in the evaluation of bids and proposals.

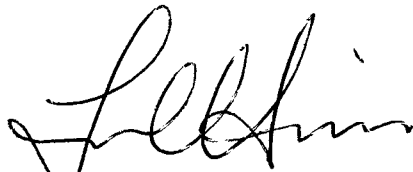
Item III Action: This page updates the list of current
(App. C) FIRMR issuances. Specifically, Section C is updated to reflect the issuance of Amendments 2 and 3.

Filing Instructions

Items I thru III Remove existing pages and insert revised or replacement pages in accordance with the following instructions:

<u>In</u>	<u>Remove Pages</u>	<u>Insert pages</u>
Part 201-1	1-1 thru 1-2	1-1 thru 1-2
Part 201-3	3-1 thru 3-3	3-1 thru 3-3
Part 201-4	4-3 thru 4-4	4-3 thru 4-4
Part 201-9	9-3 thru 9-4	9-3 thru 9-4
Part 201-18	18-1	18-1
Part 201-20	20-1 thru 20-8	20-1 thru 20-8
Part 201-21	21-1, 21-2, 21-5, 21-6	21-1, 21-2, 21-5, 21-6
Part 201-23	23-1 thru 23-2	23-1 thru 23-2
Part 201-24	24-i thru 24-4	24-i thru 24-4
Part 201-39	39-1 thru 39-15	39-1 thru 39-15
Appendix C	C-1	C-1

Point of Contact. Questions concerning your agency's distribution of Transmittal Circulars or the FIRMR should be directed to your agency GPO Liaison Officer. If additional assistance is needed, please contact R. Stewart Randall, Jr., Regulations Analysis Division (KAR) telephone, commercial (202) 501-3194 (v) or (202) 501-0657 (tdd).



FRED L. SIMS
Acting Assistant Commissioner for
Information Technology
Policy and Leadership

PART 201-1—APPLICABILITY AND AUTHORITY

§ 201-1.000 Scope of part.

This part prescribes the extent to which the Federal Information Resources Management Regulation (FIRMR) applies to the creation, maintenance, and use of Federal records and the acquisition, management, and use of Federal information processing (FIP) resources by Federal agencies. It also discusses the basic authority for the FIRMR.

§ 201-1.001 [Reserved]

§ 201-1.002 Applicability.

§ 201-1.002-1 Policy.

The FIRMR applies to—

- (a) The acquisition, management, and use of FIP resources by Federal agencies.
- (b) Any Federal agency solicitation or contract when either paragraph (b)(1), (b)(2), or (b)(3) applies:
 - (1) The solicitation or contract requires the delivery of FIP resources for use by a Federal agency or users designated by the agency.
 - (2) The solicitation or contract explicitly requires the use by the contractor of FIP resources that are not incidental to the performance of the contract. FIP resources acquired by a contractor are incidental to the performance of a contract when:
 - (i) None of the principal tasks of the contract depend directly on the use of the FIP resources; or
 - (ii) The requirements of the contract do not have the effect of substantially restricting the contractor's discretion in the acquisition and management of FIP resources, whether the use of FIP resources is or is not specifically stated in the contract.
 - (3) The solicitation or contract requires the performance of a service or the furnishing of a product that is performed or produced making significant use of FIP resources that are not incidental to the performance of the contract. Significant use of FIP resources means:
 - (i) The service or product of the contract could not reasonably be produced or performed without the use of FIP resources; and
 - (ii) The dollar value of FIP resources expended by the contractor to perform the service or furnish the product is expected to exceed \$500,000 or 20 percent of the estimated cost of the contract, whichever amount is lower.

(c) The creation, maintenance, and use of records by Federal agencies.

§ 201-1.002-2 Exceptions.

(a) The FIRMR does not apply to the procurement of FIP resources—

- (1) By the Central Intelligence Agency.
- (2) By the Department of Defense when the function, operation or use of such resources—
 - (i) Involves intelligence activities, cryptologic activities related to national security, the command and control of military forces, or equipment that is an integral part of a weapon or weapons system; or
 - (ii) Is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include FIP resources used for routine administrative and business applications such as payroll, finance, logistics, and personnel management.

(b) The FIRMR does not apply to radar, sonar, radio or television equipment, except that the FIRMR is used by GSA to implement Federal Telecommunications Standards for radio equipment.

(c) When both FIP and other resources are being acquired under the same solicitation or contract and the FIRMR applies to the solicitation or contract, the FIRMR applies only to the FIP resources.

(d) Where the value of the FIP resources to be delivered does not exceed \$500,000 and constitutes only a minimal dollar amount of the contract, or is of little consequence to the major purpose of the contract, the FIRMR does not apply.

(e) While the FIRMR may require an agency to include in Federal solicitations and contracts provisions and clauses that control the contractor's acquisition of FIP resources, the FIRMR does not apply to FIP resources acquired by a Federal contractor that are incidental to the performance of a contract.

(f) The FIRMR does not apply to the acquisition, management, and use of products containing embedded FIP equipment when:

- (1) the embedded FIP equipment would need to be substantially modified to be used other than as an integral part of the product, or
- (2) the dollar value of the embedded FIP equipment is less than \$500,000 or less than 20 percent of the value of the product, whichever amount is lower. Embedded FIP

equipment is FIP equipment that is an integral part of the product, where the principal function of the product is not the "automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. In an acquisition where multiple products are acquired, the exception applies to each discrete product.

(g) The FIRMR does not apply to the acquisition, management, and use of FIP resources that will be used in or as embedded FIP resources (equipment, software, or supplies) in products excepted from FIRMR coverage under § 201-1.002-2(1). This exception includes replacement or upgrades of the embedded FIP resources, regardless of the cost.

§ 201-1.002-3 Procedures.

FIRMR Bulletin A-1 provides an analytical framework, guidance, and examples for use in determining whether the FIRMR applies to an acquisition. Agencies should use this bulletin to assist them in understanding FIRMR applicability provisions.

§ 201-1.003 Authority.

(a) The FIRMR is prepared, issued, and maintained, and the FIRMR system is prescribed, by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, Public

Law 152, 81st Congress (63 Stat. 377), as amended (the "Property Act"), particularly sec. 205(c) (40 U.S.C. 486(c)), sec. 101(f) (40 U.S.C. 751(f)), and other authorities cited.

(b) The authority conferred upon the Administrator of General Services by 40 U.S.C. 759 shall not be construed as to impair or interfere with the determination by agencies of their individual FIP resources requirements, including the development of specifications for and the selection of the types and configurations of resources needed.

(c) The General Services Administration's (GSA's) records management authorities and responsibilities are defined under 44 U.S.C. 2901 et seq., which requires the Administrator to, among other things, provide guidance and assistance to Federal agencies to ensure economical and effective records management by agencies.

(d) The Archivist of the United States is responsible for providing guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and to ensure proper records disposition. Records management policies and guidance established by the Archivist are contained in regulations in 36 CFR chapter XII and in bulletins and handbooks issued by the National Archives and Records Administration.

PART 201-3--THE FIRMR SYSTEM

§ 201-3.000 Scope of part.

This part describes the Federal Information Resources Management Regulations System.

§ 201-3.001 General.

(a) The Federal Information Resources Management Regulations System consists of the Federal Information Resources Management Regulation (FIRMR), which is the primary document; and agency regulations that implement or supplement the FIRMR. The FIRMR includes interim rules which are published when time or exceptional circumstances do not permit the participation by agencies or the public before promulgation of an amendment for codification in the Code of Federal Regulations (CFR). FIRMR interim rules are usually followed by a final rule which confirms that the interim rule is final and may include further amendments. FIRMR interim rules have the same force and effect as codified material.

(b) From time to time, the General Services Administration (GSA) will issue nonregulatory publications to provide guidance and information. FIRMR bulletins, handbooks, and reports are the documents most frequently used to issue this guidance material.

(1) FIRMR bulletins contain guidance and information on various information resources management subjects. FIRMR bulletins do not constitute binding authority, but should be used as an aid in understanding and using GSA programs and the FIRMR. They may contain procedures for use of GSA programs. FIRMR bulletins are published in appendix B of the looseleaf edition of the FIRMR and are available along with the FIRMR from GPO by subscription or on GSA's CD-ROM.

(2) Handbooks and reports address specific program or technical areas where the audience generally will be defined by the subject matter.

(3) Appendix C of the looseleaf edition of the FIRMR contains a listing of current bulletins, handbooks, and reports and information on how to obtain them

Subpart 201-3.1—Purpose

§ 201-3.100 Scope of subpart.

This subpart describes the purpose of the FIRMR and its relationship to the Federal Acquisition Regulation (FAR).

§ 201-3.101 Purpose.

The FIRMR system is established to publish and codify uniform policies and procedures pertaining to information resources management activities by Federal agencies.

§ 201-3.102 Relationship to the Federal Acquisition Regulation (FAR).

(a) Part 201-39 contains Governmentwide policies and procedures unique to the acquisition of FIP resources by contracting. The FIRMR relies on the FAR for general policies and procedures to be used in acquiring these resources. The policies and procedures of part 201-39 are in addition to, not in lieu of, the FAR policies and procedures, except when the FIRMR specifically requires its policies and procedures, and not those of the FAR, to be followed.

(b) Notwithstanding the fact that the FAR is for the use of executive agencies in the acquisition of supplies and services, Federal agencies not otherwise subject to the FAR shall use the FAR in conjunction with the FIRMR when acquiring FIP resources.

Subpart 201-3.2—Administration of the FIRMR

§ 201-3.200 Scope of subpart.

This subpart describes the issuance, structure, and maintenance of the FIRMR. It also describes how to obtain copies of the FIRMR.

§ 201-3.201 Issuance.

(a) The FIRMR is published in—

(1) The FEDERAL REGISTER;

(2) The CFR (cumulated form); and

(3) A separate looseleaf edition available by subscription.

(b) Amendments and interim rules are published in the FEDERAL REGISTER, the CFR, and in looseleaf form. Bulletins are published in looseleaf form only.

(c) Handbooks and reports are published as separate stand-alone documents.

(d) The FIRMR is issued as chapter 201 of title 41, CFR. Subsequent chapters in subtitle E of title 41 are reserved for agency regulations that implement or supplement the FIRMR. The CFR staff will assign FIRMR chapter numbers to requesting agencies.

§ 201-3.202 Structure.

(a) *Numbering.* The FIRMR is divided into subchapters, parts, subparts, sections, and subsections within Chapter 201 of Title 41 of the CFR. Subsection 201-9.202-1 is identified as follows:

Chapter	Part	Subpart	Section	Subsection
201-	9.	2	02	-1

(b) *References and citations.*

(1) This regulation may be referred to as the Federal Information Resources Management Regulation or the FIRMR.

(2) This regulation is cited as "41 CFR 201-" followed by the appropriate subordinate division numbers.

§ 201-3.203 Maintenance.

(a) The Commissioner, Information Resources Management Service, GSA is responsible for—

(1) Preparing proposed changes to the FIRMR;

(2) Soliciting comments on proposed changes to the FIRMR;

(3) Considering all comments received in response to notices of proposed changes;

(4) Arranging for agency and public meetings regarding FIRMR changes;

(5) Preparing any final change in the appropriate FIRMR format and language;

(6) Submitting any final change to the FEDERAL REGISTER Liaison Officer for publication in the FEDERAL REGISTER and printing for distribution; and

(7) Performing miscellaneous administrative tasks pertaining to the maintenance of the FIRMR.

(b) The Administrator of General Services is responsible for signing all FIRMR amendments and interim rules.

(c) The Administrator of General Services may issue a temporary change to the FIRMR where solicitation of comments is impractical due to urgent and compelling circumstances (e.g., when a new statute must be implemented in a relatively short period of time). However, the temporary change will

make provision for a public comment period of at least 30 days for consideration in the formulation of the final change to the FIRMR.

§ 201-3.204 Copies.

(a) Copies of the FIRMR in FEDERAL REGISTER (daily) and CFR (cumulative form, annually updated) form may be purchased from the Government Printing Office (GPO) Bookstore, Washington, DC 20402, telephone: (202) 275-2091.

(b) Copies of the FIRMR in looseleaf edition (cumulative reprint plus amendments, interim rules, and bulletins) may be purchased by subscription from GPO.

Subpart 201-3.3—Agency Regulations

§ 201-3.300 Scope of subpart.

This subpart prescribes the policy regarding the issuance of agency regulations to implement or supplement the FIRMR.

§ 201-3.301 Policy.

(a) An agency head may issue or authorize the issuance of agency regulations that implement or supplement the FIRMR.

(b) Agency regulations that are published in the FEDERAL REGISTER shall be codified under an assigned chapter in title 41, Code of Federal Regulations, and shall parallel the FIRMR in format, arrangement, and numbering systems.

(c) Agency regulations that implement or supplement the FIRMR and pertain solely to the acquisition of Federal information processing resources by contracting may be published in agency acquisition regulations.

§ 201-3.302 Limitations.

(a) Unless otherwise specified by law, agency regulations that implement or supplement the FIRMR shall be limited to—

(1) Those necessary to implement FIRMR policies and procedures within the agency; and

(2) Additional policies and procedures that supplement the FIRMR to satisfy the specific needs of the agency.

(b) Agency regulations shall not—

(1) Unnecessarily repeat, paraphrase, or otherwise restate material contained in the FIRMR or higher-level agency regulations; or

(2) Conflict or be inconsistent with the FIRMR, except as required by law or as

provided in FIRMR subpart 201-3.4.

Subpart 201-3.4—Deviations from the FIRMR

§ 201-3.400 Scope of subpart.

This subpart prescribes the policies and procedures for authorizing deviations from the FIRMR.

§ 201-3.401 Policy.

Deviations from the FIRMR shall be kept to a minimum consistent with the specific needs and statutory authorities of each agency. Individual and class deviations may be authorized by GSA's Commissioner, Information Resources Management Service, or the officials designated by the Commissioner for this purpose.

§ 201-3.402 Exception.

(a) For an acquisition limited solely to providing electronic office equipment accessibility for employees with disabilities, an individual deviation from the FIRMR may be authorized by the agency's DSO or the

DSO's authorized representative. This deviation authority is limited to those FIRMR provisions that—

- (1) Are not specifically prescribed by statute or executive order;
 - (2) Do not change the level of procurement authority delegated from GSA to the agency; and
 - (3) Impede or obstruct the acquisition of technology for employees with disabilities.
- (b) A deviation authorized under paragraph (a) of this section may be granted immediately upon a written determination by the agency, identifying those FIRMR provisions impeding or obstructing the acquisition of technology for employees with disabilities. Agencies shall promptly provide a copy of each determination and deviation to: General Services Administration, Regulations Analysis Division (KAR), 18th & F Streets, NW, Washington, DC 20405.

§ 201-3.403 Procedures.

(a) The agency head or designee shall prescribe an agency procedure for the control

form or characteristics, accumulated or maintained in filing equipment, boxes, or machine-readable media, or on shelves, and occupying office or storage space.

Form means a fixed arrangement of captioned spaces designed for entering and extracting prescribed information, including FIP systems forms, regardless of media.

Implementation plan means a document identifying the tasks that must be accomplished in order to place FIP resources into service. The plan also describes the management, contracting, technical, and operating assignments and responsibilities of systems operations.

Information resources management means the planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources, such as Federal information processing resources (see 44 U.S.C. 3502(13)).

Information Systems Security (INFOSEC) means a composite of factors necessary to protect FIP systems and the information they process to prevent exploitation through interception, unauthorized electronic access, or related technical intelligence threats, and to ensure authenticity. This protection results from the application of security measures; including cryptosecurity, transmission security, emission security, and computer security; to systems that generate, store, process, transfer or communicate information of use to an adversary, and also includes the physical protection of sensitive material and sensitive technical security.

Interoperability means the ability of FIP resources to provide services to and accept services from other FIP resources and to use the services so exchanged to enable them to operate effectively together.

Long distance telephone service means any service or facility purchased with Government funds for completing telephone calls outside of the local service area.

Lowest overall cost means the least expenditure of funds over the system life, price and other factors considered, including, but not necessarily limited to—

- (a) Prices for the FIP resources;

- (b) The present value adjustment, if used; and

- (c) The identifiable and quantifiable costs—

- (1) Directly related to the acquisition and use of the FIP resources;

- (2) Of conducting the contract action; and

- (3) Of other administrative efforts directly related to the acquisition process.

Mail means letters, telecommunications, memoranda, post cards, documents, packages, publications, and other communications received for distribution or dispatch.

Most advantageous alternative means the alternative that provides the greatest value to the Government over the system life in terms of price or cost, quality, performance, and any other relevant factors.

National security and emergency preparedness (NSEP) means those physical, technical, and administrative characteristics of FIP systems that will ensure a prescribed level of survivability in times of national or other emergencies up to and including nuclear attack. Government common-use telecommunications systems are designed, built, tested, and maintained to meet the defined emergency mission needs of the Government entities that use them.

Obsolescence means the state of FIP hardware or software that is either in a degenerative condition which if not corrected will render the resource useless, or becoming technologically outmoded compared to other hardware or software being sold.

Optional form means a form developed by a Federal agency for use in two or more agencies and approved by GSA for nonmandatory Governmentwide use.

Outdated FIP equipment means any FIP equipment over eight years old, based on the initial commercial installation date of that model of equipment, and that is no longer in current production.

Overprinting means the printing of pertinent identical entries (e.g., agency name and address) in a captioned area on a Standard or Optional form.

Performance validation means the technical verification of the ability of a proposed FIP system configuration or replacement component to meet agency-specified performance requirements.

(a) Timed execution of the existing agency programs, transactions, and data files on the proposed configuration;

(b) Execution with synthetically generated workloads;

(c) Remote terminal emulation with simulated on-line workloads;

(d) Acceptance testing with present operational software, data files, and workloads;

(e) "Stress testing" with exaggerated workload volumes;

(f) Modeling of the interaction of the new information processing system and its workload;

(g) Benchmarking as defined in applicable FIPS PUBS; and

(h) Simulation modeling of FIP system performance, defined to mean the development and use of computer models for the study of actual or postulated workloads on simulated FIP systems.

Radar equipment means any radio detection device that provides information on range, azimuth, or elevation of objects.

Radio equipment means any equipment or interconnected system or subsystem of equipment (both transmission and reception) that is used to communicate over a distance by modulating and radiating electromagnetic waves in space without artificial guide. This does not include such items as microwave, satellite, or cellular telephone equipment.

Reassignment means the transfer of other-than-excess FIP equipment or the transfer of FIP software, within an agency.

Records means all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes,

extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.

Records creation means the production or reproduction of any record.

Records disposition means any activity with respect to disposal of temporary records no longer necessary for the conduct of business by destruction or donation; transfer of records to Federal agency storage facilities or records centers; transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or transfer of records from one Federal agency to any other Federal agency.

Records maintenance and use means any activity involving location of records of a Federal agency; storage, retrieval, and handling of records kept at office file locations by or for a Federal agency; processing of mail by a Federal agency; or selection and utilization of equipment and supplies associated with records and copying.

Report means data or information which is transmitted for use in determining policy; planning, controlling, and evaluating operations and performance; making administrative decisions; or preparing other reports. The data or information may be in narrative, statistical, graphic, or other form and may be on paper, magnetic tape, or other media.

Reuse means the subsequent use of FIP equipment after it is no longer needed for the purpose for which it was originally acquired.

Sensitive information means any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

Software Application means a series of

(1) Establish and issue in the FEDERAL REGISTER, Governmentwide procedures prescribing the use and availability of all Standard and Optional Forms which it promulgates or sponsors (revisions may be announced in the appropriate directive or regulatory system);

(2) Obtain GSA approval for each new, revised, or canceled Standard and Optional form, and exceptions thereto, prior to implementation;

(3) Designate an agency-level Standard and Optional forms liaison representative and alternate, and notify GSA in writing of such designees' names, titles, mailing addresses, and telephone numbers within 30 days of the designation or redesignation;

(4) Use Standard Form 152, Request for Clearance or Cancellation of a Standard or Optional Form or Exception, to obtain GSA approval for each new, revised, and canceled Standard and Optional form, and exceptions thereto;

(5) Perform an annual review, to include all existing Standard and Optional forms which the agency has promulgated, or sponsored, as well as all approved exceptions, to determine and implement forms improvement, consolidation, or cancellation;

(6) Obtain GSA clearance under both the Standard and Optional Forms Management Program and the Interagency Reports Management Program when a standard or optional form is also an interagency report;

(7) As directed by GSA and OMB, submit a summary of the Standard and Optional Forms used for collection of information covered by 5 CFR part 1320 to: General Services Administration, Regulations Analysis Division (KAR), 18th & F Streets, NW, Washington, DC 20405;

(8) Send requests for GSA approval and the notifications to GSA required by this section to the address in paragraph (b)(7) of this section.

(9) Request approval to overprint forms by contacting: General Services Administration, Inventory and Requisition Management Division (FCNI), 1941 Jefferson Davis Highway, Crystal Mall, Building 4, Washington, DC 20406; and

(10) Coordinate all matters concerning health-care-related Standard Forms through the Interagency Committee on Medical Records (ICMR). For additional information

on the ICMR, contact: General Services Administration, Forms Management Branch (CARM), 18th & F Streets, NW, Washington, DC 20405.

§ 201-9.202-2 Interagency Reports Management Program.

(a) *General.*

(1) GSA manages the Interagency Reports Management Program to ensure that interagency reports and recordkeeping requirements are based on need, are cost-effective, and comply with applicable laws and regulations.

(2) FIRMR Bulletin B-2 contains additional guidance on the Interagency Reports Management Program.

(b) *Procedures.*

(1) Each agency shall—

(i) Obtain GSA approval for each new, revised, or extended interagency report, prior to implementing the report;

(ii) Designate an agency-level interagency reports liaison representative and alternate, and notify GSA in writing of such designees' names, titles, mailing addresses, and telephone numbers within 30 days of the designation or redesignation;

(iii) Use Standard Form 360, Request to Approve an Interagency Reporting Requirement, to obtain GSA approval for each new, revised, or extended interagency report;

(iv) Attach to each Standard Form 360, a justification statement (signed by the official who requested the report) describing the need for the report;

(v) Explain how the reporting costs shown on Standard Form 360 were derived;

(vi) Make supporting documentation for cost estimates available for GSA review;

(vii) Submit to GSA and OMB (see 5 CFR part 1320) simultaneously for approval, interagency reports that collect information from Federal agencies and from either the public or State or local governments;

(viii) Notify GSA and responding agencies when an interagency report is no longer needed; and

(ix) Send requests for GSA approval and notifications regarding interagency reports to: General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

(2) This section does not apply to the following interagency reports: (However, interagency reports required by Federal agencies to respond to these reports are subject to this section.)

- (i) Legislative branch reports.
- (ii) Office of Management and Budget (OMB) and other Executive Office of the President reports.

(iii) Judicial branch reports required by court order or decree.

(iv) Reporting requirements for security classified information. However, interagency reporting requirements for non-sensitive or unclassified sensitive information are not exempt, even if such information is later given a security classification by the requesting agency.

PART 201-18—PLANNING AND BUDGETING

§ 201-18.000 Scope of part.

This part prescribes policies and procedures regarding planning and budgeting for Federal information processing (FIP) resources.

§ 201-18.001 General.

(a) 44 U.S.C. 3506(c)(8) (the Paperwork Reduction Reauthorization Act of 1986) requires executive agencies to develop and annually revise a 5-year plan for meeting the agency's information technology needs.

(b) Office of Management and Budget (OMB) Circular No. A-130 requires executive agencies to establish multiyear strategic planning processes for acquiring and operating information technology that meet program and mission needs, reflect budget constraints, and form the basis for their budget requests.

(c) OMB Circular No. A-11 requires executive agencies to prepare and submit annual agency-wide "Major Information Technology Acquisition Plans."

(d) The Computer Security Act of 1987 (Public Law 100-235, 40 U.S.C. 759 Note) requires agencies to identify each FIP system that contains sensitive information and prepare a plan for the security and privacy of each such system.

(e) Section 508 of the Rehabilitation Act Amendments of 1986 (Public Law 99-506) requires the Federal Government to adopt guidelines for electronic equipment accessibility designed to ensure that individuals with disabilities may use electronic office equipment. This Act requires that agencies comply with such guidelines. FIRMIR Bulletin C-8 provides guidance on planning for the FIP resources accommodation needs of individuals with disabilities.

(f) The General Services Administration (GSA) helps agencies with their IRM planning by issuing handbooks, bulletins, and other guidance documents. IRM planning services are available, on a cost-reimbursable basis, through GSA's Office of Technical Assistance.

(g) GSA reviews agency IRM plans and

the planning process as part of the Information Resources Procurement and Management Review Program described in part 201-22. Agencies' IRM planning is a factor in delegating procurement authority for FIP resources.

§ 201-18.002 Policies.

(a) Agencies shall develop a 5-year plan for meeting the agency's information technology needs. This plan shall—

(1) Reflect current and future program and mission needs;

(2) Consider the potential for deploying projected technological advances of FIP resources to enhance future performance of programs and operations in support of the agency mission;

(3) Consider FIP resources needed to meet the national security and emergency preparedness needs of the agency;

(4) Reflect budget constraints;

(5) Form the basis for the agency's budget requests to OMB;

(6) Serve as the foundation for requirements analyses; and

(7) Be updated as needed, but at least annually.

(b) Agencies shall ensure that the IRM planning process includes the participation of each of the agency's program areas, as well as those organizations responsible for IRM (including records management), contracting, and budget preparation.

(c) Agencies shall adopt electronic equipment accessibility guidelines similar to those described in FIRMIR Bulletins C-8 and C-10 in their planning process.

(d) Agencies shall ensure that acquisition of FIP resources is in accordance with the updated 5-year plan.

§ 201-18.003 Procedure.

Each agency shall send a copy of its annually revised 5-year plan, within 30 days after its preparation, to: General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

PART 201-20—ACQUISITION

§ 201-20.000 Scope of part.

This part prescribes policies and procedures for acquisition of Federal information processing (FIP) resources by agencies.

§ 201-20.001 General.

(a) *Acquisition*, as used in this part—

(1) Consists of a series of steps beginning with the requirements analysis and ending with the implementation of the most advantageous alternative to satisfy the requirement; and

(2) Includes obtaining FIP resources both from sources external to the agency and through in-house sources or development.

(b) Acquisition by contracting is addressed in part 201-39.

(c) Technical assistance in support of acquisitions is available, on a cost reimbursable basis, through GSA's Office of Technical Assistance.

(d) Guidance on conducting a requirements analysis and an analysis of alternatives is contained in the GSA Acquisition Guide series.

Subpart 201-20.1—Requirements Analysis

§ 201-20.100 Scope of subpart.

This subpart prescribes policies and procedures for determining requirements for FIP resources.

§ 201-20.101 General.

The requirements analysis is used to determine and document requirements for FIP resources. It provides the basis on which the alternatives for meeting the requirements can be analyzed.

§ 201-20.102 Policy.

Agencies shall establish and document requirements for FIP resources by conducting a requirements analysis commensurate with the size and complexity of the need.

§ 201-20.103 Procedures.

The requirements analysis shall include, at a minimum, consideration of the following factors:

§ 201-20.103-1 Information needs.

Agencies shall determine their information needs by considering—

(a) Their need to provide information to and obtain information from the public and

other agencies;

(b) Available sources of information;

(c) Information format, media, quantity, integrity, security, and timeliness requirements;

(d) Essential records and information required to support current and future program and mission needs;

(e) Agency records retention and disposition requirements and the need to assure archival acceptability of permanent or long-term records;

(f) The integration of electronic records with other agency records; and

(g) Existing or planned intra or interagency interoperability requirements.

§ 201-20.103-2 System life.

Agencies shall establish a system life as a part of the requirements analysis. If the acquiring activity can predict reuse of the FIP resource by another component within the agency after it no longer meets the acquiring activity's needs, the reuse period shall be included in the system life.

§ 201-20.103-3 Description of requirements.

Agencies shall—

(a) Base requirements on mission needs expressed in the form of opportunities for increased economy and efficiency, new or changed program requirements, or deficiencies in existing capabilities;

(b) Describe requirements in terms of functions to be performed and performance to be achieved, unless a more restrictive statement of requirements is necessary to satisfy the needs of the agency;

(c) Describe requirements in a manner that will attain full and open competition when contracting for FIP resources unless other than full and open competition is justified in accordance with subpart 201-39.6 and FAR part 6;

(d) Document in the requirements analysis the quantitative or qualitative requirements that must be met and why those requirements are necessary to meet the mission needs; and

(e) Consider aggregating requirements on organizational or functional bases and conducting a requirements analysis on the basis of the aggregated requirements.

§ 201-20.103-4 Compatibility-limited requirements.

(a) Agencies shall establish compatibility-limited requirements for FIP resources only to the extent necessary to satisfy the needs of the agency.

(b) Agencies shall justify compatibility-limited requirements for FIP resources on the basis of at least one of the following:

(1) The agency has technical or operational requirements for compatibility when adding resources to, or replacing a portion of, an installed base of resources, and the agency determines that replacing additional portions of the installed base to avoid compatibility-limited requirements is not advantageous to the Government; or

(2) The agency determines that the risk and impact of a conversion failure on agency critical mission needs would be so great that acquiring non-compatible resources is not a feasible alternative.

§ 201-20.103-5 Justification for specific make and model.

Technical and requirements personnel shall justify a requirement that can only be met by specific make and model resources in accordance with subpart 201-39.6.

§ 201-20.103-6 Security requirements.

Agencies shall—

(a) Identify security and privacy requirements in the requirements analysis;

(b) Identify security requirements necessary to protect classified and sensitive information by listing the potential threats and hazards and describing the measures needed to provide protection; and

(c) Identify physical and environmental security safeguards.

§ 201-20.103-7 Accessibility requirements for individuals with disabilities.

(a) Agencies shall provide equivalent access to electronic office equipment for individuals with disabilities (employees and others who use the agency's electronic office equipment) to the extent both present and future needs for such access are determined by the agency.

(b) Agencies shall provide telecommunications access to hearing and speech-impaired individuals to the extent both present and future needs for such access are identified in the requirements analysis. Telecommunications access for hearing and

speech impaired individuals shall include education and training on the services and features of the GSA relay service.

(1) Agencies shall publish access numbers for TDD and TDD-related devices in telephone directories and provide such agency numbers to GSA for inclusion in the Federal TDD Directory.

(2) Agencies shall display in their buildings or offices the standard logo specified by GSA for indicating the presence of TDD or TDD-related equipment.

(c) Agencies shall consider the guidance contained in FIRMR Bulletins C-8 and C-10 on the subject of accessibility requirements for individuals with disabilities.

§ 201-20.103-8 Space and environmental requirements.

Agencies shall consider space and environmental factors when conducting the requirements analysis.

§ 201-20.103-9 Workload and related requirements.

As a minimum, agencies shall document in the requirements analysis the following factors, as applicable:

(a) Projected processing, storage, data entry, communications, and support services workload requirements over the system life and how best to address workload uncertainties.

(b) Expandability requirements.

(c) A performance evaluation of currently installed FIP resources.

(d) Contingency requirements for FIP resources whose loss or failure would prevent the agency from performing its mission, or have an adverse effect on the nation.

(e) Other requirements that must be met or constraints that must be considered.

§ 201-20.103-10 Records management requirements.

Agencies shall include records management factors in the requirements analysis.

201-20.103-11 Energy efficiency requirements for microcomputers.

(a) Agencies shall include requirements for energy efficiency in the requirements analysis. At a minimum, agencies shall require that microcomputers, including personal computers, monitors, and printers,

acquired by the agency be equipped with the energy efficient low-power standby feature as defined by the Environmental Protection Agency Energy Star computer program, unless the equipment meets the Energy Star requirements at all times. To the extent permitted by law, agencies shall include this specification in all existing contracts, if any additional costs would be offset by the potential energy savings.

(b) Agencies shall consider the guidance contained in FIRMR Bulletin C-35 in developing their requirements and for the specific procedure for reporting exempted acquisitions.

(c) Agencies shall report annually, by October 18 on acquisitions exempted from this requirement. Reports shall be sent to: GSA, Acquisition Reviews Division (KMA), 18th & F Streets, NW, Washington DC 20405.

(d) Agencies shall ensure that Federal users are made aware of the significant economic and environmental benefits of the low energy efficient power standby feature and its aggressive use by including this information in routine computer training courses.

Subpart 201-20.2—Analysis of Alternatives

§ 201-20.200 Scope of subpart.

This subpart prescribes policies and procedures for identifying and analyzing feasible alternatives that satisfy requirements for FIP resources.

§ 201-20.201 General.

(a) The statement of requirements resulting from the requirements analysis is the basis on which the analysis of alternatives is conducted. The purpose of the analysis of alternatives is to compare and evaluate various alternatives for meeting the requirements and to determine which alternative is the most advantageous alternative to the Government.

(b) The FIRMR bulletin series provides guidance on GSA programs for meeting agencies' requirements and potential sources of FIP resources sharing.

§ 201-20.202 Policy.

Using the results of the requirements analysis as the basis, agencies shall conduct an analysis of alternatives, commensurate

with the size and complexity of the requirement, to identify the most advantageous alternative to the Government.

§ 201-20.203 Procedures.

The General Services Administration (GSA) has established various programs to satisfy agencies' requirements for FIP resources. Part 201-24 describes these programs and the extent to which their use or consideration is mandatory.

§ 201-20.203-1 Consideration of alternatives.

(a) Agencies shall—

(1) Conduct market research to determine the availability of technology to meet their requirements and to assist in identifying feasible alternatives;

(2) Use GSA's mandatory-for-use programs described in subpart 201-24.1 when their requirements can be met by these programs, unless they have requested and received an exception to the use of these programs from GSA;

(3) Use GSA's mandatory-for-consideration programs described in subpart 201-24.2 when their requirements can be met by those programs and using them is the most advantageous alternative to the Government;

(4) Consider using FIP resources available for reuse within the agency and from other agencies to satisfy their requirements;

(5) Consider using existing FIP resources on a shared basis to satisfy their requirements; and

(6) Consider acquiring FIP resources by contracting.

(b) Agencies should also consider using GSA nonmandatory programs to meet their requirements.

§ 201-20.203-2 Cost for each alternative.

(a) In the analysis of alternatives, agencies shall calculate the total estimated cost, using the present value of money, for each feasible alternative unless the anticipated cost of the acquisition is \$50,000 or less. The total estimated cost for each alternative shall include system life cost for that alternative and any other costs, that can be identified with the alternative, incurred either before or after the system life period.

(b) When the anticipated cost of the acquisition is \$50,000 or less, the total estimated cost may be limited to an analysis demonstrating that the benefits of the acquisition will outweigh the costs.

(c) Agencies shall follow the guidance of OMB Circular A-94 when calculating the cost of each alternative.

§ 201-20.203-3 [Reserved]

§ 201-20.203-4 Conversion.

(a) When evaluating alternatives, it is important for the Government to consider its investment in FIP resources that may have to be converted, replaced, or disposed of, as a result of the alternative selected. Therefore, as part of the analysis of alternatives, agencies shall consider the costs, risk, and magnitude of conversion from installed FIP resources to augmentation or replacement resources.

(b) To achieve the above, agencies shall perform a conversion study, commensurate with the size and complexity of the requirement, for all acquisitions of FIP resources, except for—

(1) Initial acquisitions where no FIP resources exist;

(2) Acquisitions of FIP equipment peripherals only; or

(3) The exercise of a purchase option under a leasing agreement.

(c) In determining conversion costs, agencies shall include any cost of conversion that can be stated in dollars, as well as other expenses directly related to the conversion. However, the costs associated with the following shall not be included:

(1) Conversion of existing FIP software and data bases that would be redesigned regardless of whether or not augmentation or replacement FIP resources are acquired.

(2) Purging duplicate or obsolete FIP software, data bases, and files.

(3) Development of documentation for existing FIP application software.

(4) Improvements in management and operating procedures.

(d) In performing a conversion study, agencies shall consider the guidance contained in FIRMR Bulletin C-14 on this subject.

§ 201-20.203-5 Obsolescence.

As part of the analysis of alternatives, agencies shall determine strategies for maintaining up-to-date FIP resources and

avoiding outdated FIP resources over the system life.

Subpart 201-20.3—Implementation

§ 201-20.300 Scope of subpart.

This subpart prescribes the policies and procedures for implementing the most advantageous alternative selected as a result of the analysis of alternatives.

§ 201-20.301 General.

Implementation includes the activities in the acquisition phase, following the analysis of alternatives and selection of the most advantageous alternative, that are necessary to prepare the selected alternative for operation.

§ 201-20.302 Implementation plan.

(a) *Policy.* Agencies shall develop an implementation plan, commensurate with the size and complexity of the selected alternative, for implementing FIP resources.

(b) *Procedures.*

(1) The agency shall designate an individual to be responsible for executing each implementation plan.

(2) The plan shall describe tasks, responsibilities, resources, and schedules needed to ensure successful implementation.

§ 201-20.303 Standards.

(a) *Scope.* This section prescribes policies and procedures for the use of Federal Information Processing Standards (FIPS), Federal Telecommunications Standards (FED-STDS), interim standards, and agency-unique standards.

(b) *General.*

(1) GSA publishes a handbook titled "Federal ADP and Telecommunications Standards Index" that lists Federal standards. The index contains information about applicability for each standard and terminology for including standards in solicitations. Copies can be purchased from: U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402. FIRMR Bulletin C-3 contains additional information about the index.

(2) *Types of Federal standards—*

(i) *Federal Information Processing Standards (FIPS).*

(A) FIPS are automatic data processing standards developed and issued by the National Institute of Standards and

Technology (NIST) after approval by the Secretary of Commerce, as part of their Federal Information Processing Standards Publications (FIPS PUBS) series.

(B) Public Law 99-500 Title VIII, the "Paperwork Reduction Reauthorization Act of 1986," modified the definition of automatic data processing equipment (ADPE) to include most telecommunications equipment and services. Public Law 100-235, the "Computer Security Act of 1987," expressly provided the Secretary of Commerce authority for promulgating NIST developed Federal computer system standards, which were defined to encompass all ADPE standards. All such ADPE standards are called FIPS.

(ii) *Federal Telecommunications Standards (FED-STDS).*

(A) FED-STDS are official Federal Government publications relating to standards developed by the National Communications System under delegation from GSA. FED-STDS include those categories in the Federal Supply Class (FSC) of "Telecommunications" of the Federal Standards Program not redefined as ADPE by Public Law 99-500.

(B) FED-STDS relating to ADPE that were in existence when Public Law 99-500 was enacted are covered by the modified definition of ADPE in Public Law 99-500 and therefore fall under the authority of NIST. These standards were redesignated by NIST as FIPS.

(3) *Categories of Federal standards.*

(i) Hardware standards (FIPS).
 (ii) Software standards (FIPS).
 (iii) Application standards (FIPS).
 (iv) Data standards (FIPS).
 (v) Operations standards (FIPS).
 (vi) Telecommunications standards (i.e., FED-STDS) including those FSC telecommunications items not redefined as ADPE by Public Law 99-500. These standards are developed by the National Communication System and managed by GSA.

(vii) Computer-related telecommunications standards including those FSC telecommunications items redefined as ADPE by Public Law 99-500. These standards are issued by NIST as FIPS.

(c) *Policies.*

(1) Technical and requirements personnel shall—

(i) Review each standard to determine its applicability to each requirement; and

(ii) Work with contracting officials to ensure that all applicable Federal standards are specified in any resulting solicitation.

(2) Agencies are encouraged to apply interim Federal standards when acquiring and using FIP resources. Agencies shall develop appropriate terminology for use in solicitations that is consistent with the intended use of the interim standard.

(3) When Federal standards do not exist for FIP resources being acquired, agencies should consider the use of voluntary standards, both domestic and international.

(4) In cases where no Federal, National, or International Standards exist, agencies shall consider the development and use of agency-unique standards, provided such use is not in violation of the full and open competition requirements of Public Law 98-369, Title VII, the "Competition in Contracting Act." The use of agency-unique standards shall be coordinated with NIST.

(5) The agency head may allow the use of alternate standards for the acquisition and use of computer security items. Such standards must be more stringent than the applicable Federal standards and contain, at a minimum, the functional provisions of the applicable Federal standard.

(d) *Procedures.*

(1) *Waivers.* The Secretary of Commerce has delegated to the heads of executive departments and agencies, the authority to waive FIPS that are compulsory for agency use in the acquisition and management of FIP resources. Such waivers by agency heads shall be in accordance with the conditions and notification procedures specified by the Secretary of Commerce. If an individual FIPS is waived, a deviation from the FIRMR is not required.

(2) *Exceptions.* GSA may grant exceptions to the mandatory use of a FED-STD upon submission of adequate documentation from the requesting agency. If GSA grants an exception to the use of an individual FED-STD, a deviation from the FIRMR is not required. Requests for exceptions should be addressed to:

General Services Administration, and Regulations Analysis Division, (KAR), 18th & F Streets, NW, Washington, DC 20405.

§ 201-20.304 Capability and performance validation.

(a) *Policy.* When acquiring FIP resources, agencies shall use the capability and performance validation techniques that the agency determines are necessary to ensure that requirements are satisfied.

(b) *Procedures.*

(1) When a benchmark is used as part of performance validation, agencies shall ensure that the FIP software selected for the benchmark is representative of actual requirements and requires the minimum amount of reprogramming or conversion.

(2) In determining the capability and performance validation techniques to be used, agencies should consider the guidance contained in FIRMR bulletins. (For complex acquisitions agencies should also consider the guidance in GSA handbooks.) The provisions of FIRMR bulletins and GSA handbooks are not mandatory for use by agencies.

§ 201-20.305 Delegation of GSA's exclusive procurement authority.

(a) *General.*

(1) GSA either authorizes agencies to contract for FIP resources under a delegation of GSA's exclusive procurement authority (DPA) or contracts for these resources on behalf of agencies. GSA authorizes agencies to contract for FIP resources by the following methods for granting a DPA:

(i) Regulatory delegations as provided by this section.

(ii) A specific agency delegation.

(iii) A specific acquisition delegation.

(2) The DPAs discussed in this section are given to the agency's DSO, when GSA determines that such officials are sufficiently independent of program responsibility and have sufficient experience, resources, and ability to fairly and effectively carry out procurements under GSA's authority as provided by 40 U.S.C. 759(b)(3).

(3) The agency's DSO should redelegate, at a maximum, 50 percent of the monetary value of GSA's delegated exclusive authorities for FIP resources to qualified officials

possessing the expertise to conduct and manage FIP acquisitions.

(4) Such redelegation shall not relieve the agency's DSO of the responsibility for conduct of and accountability for acquisitions of FIP resources made under a DPA from GSA.

(5) DSO's who elect not to redelegate 50 percent of the monetary value of the delegated authority, or who withdraw a delegation, shall advise GSA/KAA, 18th and F Streets, NW, Washington, DC 20405, in writing, of the circumstances involving such redelegations and their new plan regarding redelegations within the agency.

(6) Under this section:

(i) Agencies will justify their information technology acquisition requirements in terms of functional and measurable outcomes for the client and the taxpayer.

(ii) GSA will continually review acquisitions performed under its authorities with the goal of assisting agencies to meet acquisition requirements and achieving favorable prices compared to market trends. Programs not proceeding as planned are subject to withdrawal of delegated authorities.

(7) The DSO shall provide, in writing, the position title and organizational identity of offices authorized to submit a request for a DPA from GSA to: General Services Administration, Acquisition Reviews Division (KAA), 18th and F Streets, NW, Washington, DC 20405.

(b) *Policies..*

(1) Agencies shall procure FIP resources under GSA's exclusive procurement authority.

(2) Agencies shall not fragment requirements for FIP resources in order to circumvent established delegations of procurement authority thresholds.

(3) Agencies shall consider severing requirements for FIP resources from requirements for other resources and contracting for FIP resources under a delegation when—

(i) The requirement for FIP resources can be clearly identified and explicitly stated in a

solicitation;

(ii) The technical and operational needs can be satisfied by severing requirements for FIP resources from requirements for other resources;

(iii) The items can be acquired by the Government and delivered to the contractor as required by the production schedule;

(iv) Adequate price competition can be achieved on the FIP resources portion of the requirements;

(v) The expected cost reduction will exceed the added costs of the additional acquisition by contracting;

(vi) Severing will not affect the contractor's ability and responsibility to perform as required by the contract; and

(vii) The estimated dollar value of FIP resources explicitly required by the agency in the solicitation exceeds the thresholds for regulatory delegations specified in § 201-20.305-1.

(4) GSA retains the right to revoke or suspend any delegation when GSA determines that circumstances warrant such action.

§ 201-20.305-1 Regulatory delegations.

(a) Agencies may contract for the following FIP resources without prior approval of GSA:

(1) FIP equipment, software, services, and support services when the total estimated dollar value of all of the FIP resources to be acquired under the contract, including all optional items and all option periods, does not exceed:

\$20,000,000 (\$2,000,000 for a specific make and model or a requirement available from only one responsible source) for

Department of the Air Force,
Department of the Army,
Department of Defense/Office of the Secretary of Defense,
Department of Energy,
Department of Health and Human Services,
Department of the Navy,
Department of Transportation,
Department of the Treasury, and
National Aeronautics and Space Administration;

\$10,000,000 (\$1,000,000 for a specific make and model or a requirement available from

only one responsible source) for

Department of Agriculture,
Department of Commerce,
Environmental Protection Agency,
General Services Administration,
Department of the Interior,
Department of Justice,
Department of State, and
Department of Veterans Affairs;

\$5,000,000 (\$500,000 for a specific make and model or a requirement available from only one responsible source) for all agencies; and if either paragraph (a)(1)(i), (ii), or (iii) of this section applies:

(i) The acquisition does not include telecommunications requirements within the scope of FTS2000 services or GSA's Consolidated Local Telecommunications Services Program; or requirements for telecommunications facilities or services at a location where the contract would result in more than one agency acquiring a telecommunications switching function at that location.

(ii) The agency has an exception to the use of FTS2000 services or GSA's Consolidated Local Telecommunications Services Program.

(iii) The acquisition includes telecommunications requirements within the scope of FTS2000 services or GSA's Consolidated Local Telecommunications Services Program, and the telecommunications facilities or services are acquired through the use of FTS2000 or GSA's Consolidated Local Telecommunications Services Program.

(2) FIP related supplies regardless of cost.

(3) FIP resources from the following GSA contracting programs do not require delegations of procurement authority:

(i) FTS2000 Program.

(ii) Consolidated Local Telecommunications Services Program.

(iii) Financial Management Systems Software Multiple Award Schedule Contracts Program.

(iv) Purchase of Telephones and Services Program.

(v) Other multiagency services and contracts provided by GSA's Information

Resources Management Service (IRMS) unless the service results in a contract which will be turned over to the agency after award. (A delegation is required for agency acquisitions conducted by IRMS when the contract will be turned over to the agency after award. This includes agency acquisitions conducted by the Federal Computer Acquisition Center (FEDCAC)).

(b) When FIP equipment, software, services, and support services (or any combination thereof) are combined and acquired under a single contract action, a specific acquisition delegation shall be required when the dollar value of all combined resources exceeds the regulatory dollar thresholds in paragraph (a)(1) of this section, or any specific agency delegation threshold.

(c) When an agency acquires FIP resources through the Small Business Administration's 8(a) Program, the regulatory delegations in paragraph (a)(1) above apply unless an agency is granted specific agency delegations with different thresholds. If a requirement to be satisfied through the 8(a) Program is for a specific make and model or is one that is available from only one responsible source, the lower of the two specific agency delegation thresholds (or, if none exists, the FIRMR regulatory delegation thresholds) applies. For all other acquisitions, the higher of the two specific agency delegation thresholds (or, if none exists, the FIRMR regulatory delegation thresholds) apply. For acquisitions conducted through SBA's 8(a) Program, a requirement available from only one responsible source is one for which only one source of supply or service exists. The fact that the requirement is directed to one particular source under SBA's 8(a) Program does not necessarily mean the requirement is available from only one responsible source. When using an indefinite delivery, indefinite quantity contract, the FIRMR thresholds apply to the maximum value of all combined FIP resources (including optional periods and quantities), not the minimum guaranteed value.

§ 201-20.305-2 Specific agency delegations.

The Commissioner, Information Resources Management Service, GSA, or a designee may authorize a DPA for FIP resources for individual agencies or their components that modifies the conditions of regulatory delegations. A specific agency DPA is based on the results of an Information Resources Procurement and Management Review conducted by GSA and on the agency's ability to acquire, manage, and use FIP resources in accordance with FIRMR policies and procedures.

§ 201-20.305-3 Specific acquisition delegations.

Agencies shall submit an agency procurement request (APR) to GSA and receive a specific acquisition DPA if the acquisition is not covered by a regulatory or specific agency DPA. Procedures for requesting a DPA for a specific acquisition are provided in FIRMR Bulletin C-5. A description of the Trail Boss program and procedures for requesting a specific acquisition DPA under the Trail Boss Program are provided in FIRMR Bulletin C-7. Participation in the Trail Boss Program is optional. However, a Trail Boss request shall be submitted in accordance with FIRMR Bulletin C-7.

§ 201-20.306 Delegation of GSA's multiyear contracting authority for telecommunications resources.

Executive agencies are authorized to enter into multiyear contracts for telecommunications resources subject to the following conditions:

(a) The agency shall have a delegation of GSA exclusive procurement authority for FIP resources.

(b) The contract life including options, shall not exceed 10 years.

(c) Agencies shall comply with OMB budget and accounting procedures relating to appropriated funds.

PART 201-21--OPERATIONS

§ 201-21.000 Scope of part.

This part prescribes policies and procedures for operating Federal information processing (FIP) resources.

Subpart 201-21.1—[Reserved]

Subpart 201-21.2—Inventories

§ 201-21.200 Scope of subpart.

This subpart contains policies and procedures for maintaining inventories of FIP resources, including requirements for agencies to submit inventory reports to the General Services Administration (GSA).

§ 201-21.201 General.

(a) GSA facilitates the Governmentwide management of FIP resources by requiring agencies to submit periodic and special inventory reports of certain FIP resources. The periodic report is a submission to GSA's Automatic Data Processing Equipment/Data System (ADPE/DS). Procedures for making reports and submissions are contained in the "GSA ADPE/DS Reporting Procedures and Users Manual."

(b) The manual specifies the items that shall be reported, the frequency and format of the report, and other reporting procedures. Copies are available from: General Services Administration, Federal Equipment Data Center (WHKE), National Capital Region, 7th & D Streets, SW, Washington, DC 20407.

(c) From time to time, GSA also requires agencies to submit special inventory reports of items not covered by the ADPE/DS periodic report.

§ 201-21.202 Policy.

Agencies shall maintain inventories of their FIP resources to the extent necessary to—

- (a) Ensure adequate and appropriate FIP resources to support the agency mission;
- (b) Identify FIP resources that are outdated or no longer needed;
- (c) Serve as the basis for the 5-year plan for meeting the agency's information technology needs and to help determine requirements for replacement of FIP resources;
- (d) Ensure that the agency is paying for only those resources that it is using, and cancels leases for underutilized resources;
- (e) Ensure accountability for Government

property; and

- (f) Meet GSA requests for periodic or special inventory reports.

§ 201-21.203 Procedures.

(a) Each agency shall submit a periodic inventory report of certain of its FIP resources to GSA in accordance with procedures in the GSA ADPE/DS manual. ADPE/DS is assigned report control number 0312-GSA-QU.

(b) Each agency shall periodically survey its FIP resources (excluding FIP supplies). The agency shall survey annually those FIP resources for which the agency is paying a recurring charge, such as customer premises equipment and software licenses. The agency may conduct such surveys by using sampling techniques, but shall conduct a complete survey at least once every 3 years and in any year in which sampling shows significant discrepancies.

(c) Each agency shall comply with GSA requests for special inventory reports.

Subpart 201-21.3—Security and Privacy

§ 201-21.300 Scope of subpart.

This subpart prescribes policies and procedures regarding security of FIP resources, including privacy safeguards for those FIP resources that process information about individuals.

§ 201-21.301 General.

(a) The Office of Management and Budget (OMB), the Office of Personnel Management (OPM), the Department of Commerce (DOC), and GSA are responsible for issuing Governmentwide policies, procedures, standards, and guidance regarding the privacy of individuals and the security of systems and services that process sensitive information. Appendix III to OMB Circular No. A-130 explains the specific responsibilities of these central management agencies and describes the minimum controls and requirements agencies shall follow when implementing and operating a security program.

(b) The Computer Security Act of 1987 (Public Law 100-235) requires agencies to identify each FIP system that contains sensitive information and to prepare a plan for the security and privacy of these systems.

The Act also requires mandatory periodic training for all persons involved in the management, use, and operation of FIP systems that contain sensitive information.

§ 201-21.302 Policy.

Each agency shall ensure that—

(a) A proper level of security is maintained for all FIP resources, including those maintained or provided by contractors, or State or local governments;

(b) FIP resources are operated and maintained to safeguard the confidentiality, integrity, and availability of information, including prevention of loss from natural hazards, fire, and accidents; and

(c) FIP resources are operated and maintained in a manner that protects the personal privacy of individuals.

§ 201-21.303 Procedures.

Agencies shall—

(a) Continually review operations to ensure security and privacy safeguards are implemented, operated, and maintained as intended, and that these safeguards continue to be effective;

(b) Continually monitor FIP systems that support Privacy Act "systems of records" or sensitive information to ensure protection is not compromised;

(c) Modify operations to counter changes in threats and hazards; and

(d) Consider the security and privacy guidance contained in FIRMR Bulletin C-22, OMB Circular No. A-130 Appendix III, regulations of OPM, and publications issued by NIST.

Subpart 201-21.4—Resource Sharing

§ 201-21.400 Scope of subpart.

This subpart describes policies and procedures for sharing of FIP resources.

§ 201-21.401 General.

(a) FIRMR bulletins describe agency FIP facilities and services available for sharing.

(b) The sharing of software is managed under the Federal Software Exchange Program. FIRMR Bulletin C-12 provides guidance on this program.

(c) Appendix II of OMB Circular No. A-130, *Management of Federal Information Resources*, establishes Governmentwide

procedures for cost accounting and recovery for shared resources.

§ 201-21.402 Policy.

Agencies shall determine the extent to which they will make their excess capacity of FIP resources available to other agencies on a shared basis.

§ 201-21.403 Procedures.

(a) *FIP Services.*

(1) Agencies shall contact GSA if they wish to include their excess capacity of FIP resources available for sharing in those FIRMR bulletins describing sharing opportunities.

(2) Each FIP resources facility shall report the total dollar amount charged to users (except those whom the facility has a primary responsibility to support) for the sharing of its resources during the preceding fiscal year if the total dollar amount charged to users exceeds \$100,000 during the fiscal year.

(i) Agencies may elect to submit reports on a summarized basis at any organizational level desired.

(ii) Agencies shall submit annual reports, no later than November 30, on GSA Form 2068A to: General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405. Interagency reports control number 1106-GSA-AN has been assigned to this reporting requirement.

(b) *FIP software.* Agencies shall review their general purpose FIP software to identify software that may be of use to other agencies, and make such software available to the Federal Software Exchange Center (FSEC) in accordance with procedures specified in FIRMR Bulletin C-12.

Subpart 201-21.5—Conversion

§ 201-21.500 Scope of subpart.

This subpart addresses operating considerations that facilitate conversion of FIP resources.

§ 201-21.501 General.

(a) Management of an agency's software inventory and planning for future conversions will reduce the risk and cost of conversion, enhance competition, and

by any Federal employee with the consent of all parties for each specific instance. This includes telephone conferences, secretarial recording, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege.

(d) *Procedures.*

(1) Agencies that plan to listen-in to or record telephone conversations under § 201-21.603(c)(2), (3), or (4) shall notify GSA in writing at least 30 days before the operational date. The agency shall include in the notification current copies of agency documentation, determinations, policies, and procedures supporting the application, and the name and telephone number of the agency contact. The agency shall forward the notification to: General Services Administration, Regulations Analysis Division (KAR), 18th & F Streets, NW, Washington, DC 20405.

(2) A determination as used in this section means a written justification signed by the agency head or the agency head's designee, that specifies the operational need for listening-in to or recording telephone conversations, indicates the specific system and location where monitoring is to be performed, lists the number of telephones or recorders involved, and establishes operating times and an expiration date for the monitoring.

(3) Agencies shall review, at least every 2 years, the need for each determination authorizing listening-in or recording. Agency documentation to continue or terminate the program shall be forwarded to: General Services Administration, Regulations Analysis Division (KAR), 18th & F Streets, NW, Washington, DC 20405.

(4) Each agency that conducts listening-in or recording associated with public service monitoring shall establish controls and issue written policies and procedures that provide for—

- (i) The agency head or designee to name in writing those agency officials authorized to listen-in to or record telephone conversations;
- (ii) Continuous positive action to inform the public of monitoring;
- (iii) No recording of identification of public callers;
- (iv) Keeping the number of monitored calls to the minimum necessary to obtain a statistically valid sample;

(v) Conspicuous labeling of telephone instruments subject to monitoring;

(vi) No use of the information obtained by monitoring against the public party; and

(vii) Calling-party consent for calls that are recorded.

(5) The recordings and records pertaining to listening-in to or recording of any conversations covered by this regulation shall be used, safeguarded, and destroyed in accordance with the agency records management program.

(6) GSA will periodically review agency listening-in activities conducted under the public service monitoring exception to ensure compliance with the intent of this section.

(e) *Use of recording devices.* When recording as permitted by § 201-21.603(c)(2), (3), and (4) of this section, agencies shall follow Federal Communications Commission rules on obtaining consent for recording telephone conversations on the nation's public networks (47 CFR 64.501). Proof of consent is the responsibility of the recording party. Agencies that authorize employees to record telephone conversations may obtain consent by—

(1) Prior mutual consent (oral or written) of all parties to the conversation;

(2) An oral notification recorded at the beginning, as a part of the call, by the recording party; or

(3) The automatic superimposing of a distinct signal (e.g., beep tone) at regular intervals during the conversation.

(f) *Emergency calls.* Agencies need not apply the beep tone or obtain all-party consent before recording calls made to telephone numbers publicized for emergencies or outgoing calls made in immediate response to such incoming calls.

§ 201-21.604 Toll-free telephone service.

(a) Each agency shall promptly forward a copy of each agency order for toll-free telephone service to: General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

(b) Each submission shall include—

- (1) A description of the requirement;
- (2) The program to be supported;
- (3) The type of service ordered (INWATS, FX, dial 800, etc.);

(4) The origination and termination points for the service ordered;

(5) The expected number of calls by day, week, or month;

(6) The estimated monthly cost and expected service commencement date; and

(7) The title and date of the regulatory document, if the service has been directed by a statute, Executive order, or other regulation; or the certification of compliance with 31 U.S.C. 1348, unless otherwise authorized by statute.

PART 201-23—DISPOSITION

§ 201-23.000 Scope of part.

(a) This part prescribes policies and procedures to be followed by agencies for disposing of Government-owned Federal information processing (FIP) equipment that is no longer needed for the purpose for which it was acquired.

(b) This part notifies agencies that exchange/sale transactions of Government-owned FIP equipment are to be conducted in accordance with 41 CFR part 101-46.

(c) This part describes the circumstances under which the policies and procedures for disposing of FIP equipment apply to Government-owned FIP equipment used by grantees and contractors.

(d) This part prescribes the policy for screening of FIP software that is no longer needed for the purpose for which it was acquired.

§ 201-23.001 General.

(a) Government-owned FIP equipment that is no longer needed for the purpose for which it was acquired is either—

- (1) Reassigned within the agency;
- (2) Declared excess to the agency's needs and made available for interagency screening and transfer to another agency under the GSA Excess FIP Equipment Program;
- (3) Exchanged or sold as part of a transaction to acquire replacement FIP equipment;
- (4) Declared excess and transferred to another agency outside of the GSA Excess FIP Equipment Program; or
- (5) Declared surplus and made available for donation.

(b) Detailed procedures for using the GSA Excess FIP Equipment Program are contained in FIRMR Bulletin C-2.

(c) FIP software that is no longer needed for the purpose for which it was acquired is either—

- (1) Reassigned within the agency consistent with the limitations of any applicable license; or
- (2) Otherwise disposed of consistent with the limitations of any applicable license. (GSA does not require interagency screening of FIP software.)

§ 201-23.002 Policies.

Agencies shall—

- (a) Use FIP equipment or FIP software

that is available for reassignment within the agency or by transfer from another agency when such use is the most advantageous alternative to satisfy the agency's requirements.

(b) Make available for reassignment within the agency FIP equipment that is not outdated and that is no longer needed for the purpose for which it was acquired.

(c) Make available for interagency screening and transfer to another agency, excess FIP equipment that is not outdated and has an original acquisition cost (OAC) per component of \$1 million or more. Interagency transfer of FIP equipment that is not outdated with an OAC per component of less than \$1 million, is permitted if the holding agency learns of a potential user outside of the screening process.

(d) Make available for surplus donation or subsequent sale, excess FIP equipment not exchanged, sold, reassigned or transferred.

(e) Consistent with the limitations of any applicable license—

(1) Make available for reassignment within the agency FIP software that is no longer needed for the purpose for which it was acquired;

(2) Make available for interagency transfer, excess FIP software not exchanged or sold, if the holding agency learns of a potential user outside of the screening process;

(3) For excess FIP software not reassigned, transferred, exchanged, or sold, either:

- (i) Return it to the licensor, or
- (ii) Destroy it after a duly authorized agency official determines in writing that destruction is the most cost-effective disposal approach.

§ 201-23.003 Procedures.

(a) Each agency head shall designate an agency point of contact for managing the disposition of FIP equipment and software. Each agency shall submit the name, address, and phone number of this individual to: General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

(b) Agencies shall—

- (1) Establish internal procedures for the reassignment of FIP equipment or software; and

(2) Obtain approval from the agency DSO before reassigning outdated FIP equipment.

(c) Agencies shall report to GSA for interagency screening and transfer to another agency, excess FIP equipment that is not outdated and has an OAC per component of \$1 million or more. Agencies may explain any special circumstances and request that GSA offer FIP equipment with an OAC per component less than \$1 million through the GSA Excess FIP Equipment Program. Agency reports for the GSA Excess FIP Equipment Program shall be sent to:
General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

(d) Regardless of dollar amount, agencies may conduct exchange/sale transactions of FIP equipment not transferred to another agency, or FIP software, without further GSA/IRMS approval under the FIRMR. (Exchange/sale transactions for FIP equipment may be initiated in parallel with interagency screening, but screening by GSA of exchange/sale transactions with an OAC per component of \$1 million or more shall be completed prior to concluding an exchange/sale transaction.) When an agency determines that FIP equipment will

be replaced by exchanging or selling it, the agency shall follow the contracting policies and procedures in part 201-39 and the Federal Acquisition Regulation (FAR) and the policies and procedures on exchange/sale contained in 41 CFR part 101-46. FIP software transactions must be consistent with the limitations of any applicable license.

(e) Agencies shall make available for surplus donation or subsequent sale, in accordance with 41 CFR parts 101-44 and 101-45, excess FIP equipment not exchanged, sold, reassigned, or transferred.

(f) Agencies shall apply the policies and procedures of this part 201-23 to FIP equipment used by grantees and contractors when FIP equipment is—

(1) Acquired by the contractor or grantee under a contract or grant and the terms vest title in the Government or the Government is obligated or has the option to take over title;

(2) Furnished to the grantee or contractor by the Government (Transfer of excess FIP equipment to agency project grantees shall be conducted in accordance with 41 CFR 101-43.314.); or

(3) Operated by the grantee or contractor as part of a Government-owned or Government-controlled facility.

201-24.000 Scope of part.
201-24.001 General.

**Subpart 201-24.1—GSA Mandatory-
for-Use Programs**

201-24.100 Scope of subpart.
201-24.101 The mandatory FTS2000
network.
201-24.101-1 General.
201-24.101-2 Policies.
201-24.101-3 Procedures.
201-24.102 Consolidated local
telecommunications service.
201-24.103 [Reserved]
201-24.104 [Reserved]

201-24.105 [Reserved]
201-24.106 National security and
emergency preparedness (NSEP).

201-24.107 Financial Management
Systems Software (FMSS) Multiple Awards
Schedule (MAS) Contracts Program.

**Subpart 201-24.2—GSA Mandatory-
for-Consideration Programs**

201-24.200 Scope of subpart.
201-24.201 Federal Software Exchange
Program.
201-24.202 Excess FIP Equipment
Program.
201-24.203 Telecommunications assistance
programs and services.
201-24.203-1 Federal Secure Telephone
Service (FSTS).
201-24.203-2 Information systems security
(INFOSEC).

Authority: 40 U.S.C. 486(c) and 751(f).

PART 201-24—GSA SERVICES AND ASSISTANCE

§ 201-24.000 Scope of part.

This part describes mandatory-for-use and mandatory-for-consideration services and assistance programs operated or managed by the General Services Administration (GSA) to meet agencies' needs. Section 201-24.101 implements the mandatory-for-use requirements of the FTS2000 contracts.

§ 201-24.001 General.

(a) In accordance with § 201-20.203-1(a)(2), agencies shall use GSA's mandatory-for-use programs when their requirements can be met by these programs, unless they have requested and received an exception to the use of these programs from GSA.

(b) In accordance with § 201-20.203-1(a)(3), agencies shall use GSA's mandatory-for-consideration programs when their requirements can be met by these programs and using them is the most advantageous alternative to the Government.

(c) The GSA programs and services discussed in this part are described more fully in FIRMR bulletins, handbooks, and other GSA publications. Appendix B to the FIRMR contains current FIRMR bulletins and appendix C lists bulletins, handbooks, and other guides.

(d) GSA, Federal Supply Service (FSS) manages a Federal Supply Schedules program that provides some resources that fall within the definition of FIP resources. When acquiring FIP resources from Federal Supply Schedules, agencies are responsible for determining FIRMR applicability in accordance with FIRMR § 201-1.002.

(e) GSA also provides nonmandatory services and assistance programs to help agencies meet their FIP resources requirements. These programs are discussed in FIRMR Bulletin C-9.

(f) GSA manages a nonmandatory schedule contracts program that provides a wide selection of FIP resources. Schedule 58 contains telecommunications resources and Schedule 70 contains ADP resources.

(g) GSA publishes an acquisition guide series that provides guidance to agencies on various subjects related to the acquisition of FIP resources.

Subpart 201-24.1—GSA Mandatory-for-Use Programs

§ 201-24.100 Scope of subpart.

This subpart describes GSA programs and contracts that are mandatory-for-use by agencies including policies and procedures regarding mandatory agency use of contracts known as FTS2000.

§ 201-24.101 The mandatory FTS2000 network.

§ 201-24.101-1 General.

(a) Federal agencies must use the FTS2000 network for procurements subject to Section 111 of the Federal Property and Administrative Services Act (40 U.S.C. 759).

(b) GSA will grant exceptions to the use of the FTS2000 network when—

(1) The agency's procurement requirements are unique and cannot be satisfied by the FTS2000 network; and

(2) The agency procurement would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 network.

(c) The FTS2000 network will provide Federal agencies modern up-to-date intercity telecommunications services over the life of the program. GSA will enhance existing services and add features to the FTS2000 network to maintain technologically current services and to improve services to user agencies. GSA will make service improvements in accordance with agencies needs, contract provisions, governing regulations and statutes.

(d) Specific information concerning FTS2000 services and procedures for obtaining FTS2000 network prices is provided in FIRMR Bulletin C-18.

(e) As referenced in the FIRMR the terms intercity and long distance have the same meaning.

§ 201-24.101-2 Policies.

(a) Federal agencies shall use the FTS2000 network to satisfy long distance telecommunications requirements within the United States, Guam, Puerto Rico, or the Virgin Islands for requirements which are within the scope of FTS2000 network voice, data, and video services as such services become available unless:

(1) The agency requests and obtains from GSA an exception to the use of the FTS2000 network based on a GSA determination that—

(i) The agency's procurement requirements are unique and cannot be satisfied by the FTS2000 network, and

(ii) The agency procurement would be

(ii) The agency procurement would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 network;

(2) The agency requests and obtains from GSA an interim exception to the use of the FTS2000 network based on an established date for transition to the FTS2000 network; or

(3) An exception to the use of the FTS2000 network for the agency is otherwise provided by law.

(b) Unless any of the exceptions listed in paragraph (a) of this section apply to the procurement, and when overall procurement requirements include any agency long distance telecommunications requirements which are within the scope of FTS2000 services, Federal agencies shall require offerors in new awards subject to 40 U.S.C. 759 to satisfy those requirements by using the Government furnished services of the FTS2000 network as such services become available.

(c) For ease of determining and evaluating Government costs, Federal agencies also shall require offerors to unbundle FTS2000 services in their offers by separately describing and pricing the FTS2000 services that satisfy Government requirements. However, the agency solicitation may prescribe an expected solution for the use of FTS2000. Offerors would then be required to separately price the Government-furnished services of FTS2000 only if their offers show a different use of FTS2000 than the Government's expected solution.

(d) Notwithstanding paragraphs (a) and (b) of this section, agencies may continue to use intercity telecommunications services and facilities provided under contracts previously authorized and awarded under prior FIRMR provisions without obtaining an exception to the use of the FTS2000 network. However, agencies shall use available FTS2000 services that can satisfy their procurement requirements upon expiration of such contracts. Before exercising renewal options under existing contracts that will result in the provision of intercity telecommunications services after September 30, 1991, agencies shall obtain an interim exception to the use of the FTS2000 network. This interim exception will allow GSA and

the agencies to plan an orderly transition to the FTS2000 network.

(e) In planning for transition to the FTS2000 network, agencies shall be responsible for determining customer premises equipment requirements to achieve efficient interfaces with the type of FTS2000 services needed. However, agencies shall avoid duplicating FTS2000 services. Agencies shall avoid incorporating inherently intercity features (i.e., features that can be provided only as part of an intercity network) of the FTS2000 network in agency networks. An exception to the use of the FTS2000 network is hereby provided to agencies with requirements for non-inherently intercity features to satisfy such features within a local network.

§ 201-24.101-3 Procedures.

(a) FIRMR Bulletin C-18 describes the scope and availability of FTS2000 services, including procedures for ordering services. GSA will provide assistance in understanding and pricing the services available from the FTS2000 network and in developing plans for transition to the FTS2000 network. For assistance and information concerning the FTS2000 network, agencies should contact the General Services Administration, Office of FTS2000 (T). See FIRMR Bulletin C-18 for addresses and telephone numbers.

(b) FTS2000 services may be ordered without obtaining a specific delegation of procurement authority from GSA. Agencies seeking an exception to the use of the FTS2000 network are responsible for documenting their case. A complete agency request for an exception to the use of the FTS2000 network shall establish to the satisfaction of GSA that:

(1) The agency's procurement requirements are unique and cannot be satisfied by the FTS2000 network;

(2) The agency's procurement would be cost-effective in accordance with the provisions of Part 201-20; and

(3) The agency's procurement would not adversely affect the cost-effectiveness of the FTS2000 network. (The rebuttable presumption is that, if an agency procurement requirement is unique and the resultant procurement would be cost-effective, the agency procurement would not adversely affect the cost-effectiveness of the FTS2000 network.)

(c) An agency request for an interim exception to the use of the FTS2000 network shall be based on a GSA established date for transition of agency requirements to the FTS2000 network.

(d) Any agency exception request shall be sent to the General Services Administration/Office of FTS2000 (T) at the appropriate offices listed in FIRMR Bulletin C-18.

(e) Agencies may conduct procurements for long distance telecommunications services and facilities without prior approval of GSA when:

(1) The agency's requirements are within the scope of an exception to the use of the FTS2000 network provided by GSA; and

(2) The total dollar value of the procurement, including the long distance telecommunications, is within the limits prescribed in § 201-20.305-1.

(f) An agency may appeal a GSA denial of a request for an exception to the Office of Management and Budget (OMB) under procedures in 40 U.S.C. 759(e).

(g) If an agency has a requirement for long distance telecommunications within the United States, Guam, Puerto Rico, or the Virgin Islands that may be outside the scope of FTS2000, the requirement shall be submitted to GSA/T prior to initiating acquisition action. An exception to the mandatory use of FTS2000 will be given if GSA determines the service cannot be provided by FTS2000. Additionally, if a requirement is above the regulatory or specific agency delegation, and FTS2000 is not used, a specific acquisition delegation must be obtained. Requests for an exception and a DPA may be submitted simultaneously to GSA.

§ 201-24.102 Consolidated local telecommunications service.

(a) *General.* Consolidated local telecommunications service is available in most buildings occupied by concentrations of Federal employees. This service includes the major serving switch or service, universal features and applications, and the wire and cable to the designated point of connection. FIRMR Bulletin C-15 describes consolidated local telecommunications service, how to order it, and how to obtain a current listing of service locations.

(b) *Policy.* Agencies shall use available consolidated local telecommunications service

to meet their local telecommunications requirements.

(c) *Exceptions.* Agencies at a location where GSA provides consolidated local telecommunications service may request an exception to the mandatory use of such service for unique requirements.

(1) If an exception is granted, agencies may need to obtain a specific DPA in accordance with § 201-20.305.

(2) Agencies shall submit requests for exceptions to the use of consolidated local telecommunications service to:

General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW, Washington, DC 20405.

(d) *Procedures.* FIRMR Bulletin C-15 describes procedures for using consolidated local telecommunications service. GSA charges to agencies for consolidated local telecommunications service will cover expenses for installation, changes in service, a common distributable charge, and termination.

§ 201-24.103 [Reserved]

§ 201-24.104 [Reserved]

§ 201-24.105 [Reserved]

§ 201-24.106 National security and emergency preparedness (NSEP).

(a) *General.* Executive Order 12472, April 3, 1984, requires that GSA ensure that the NSEP requirements of agencies are met. GSA incorporates NSEP safeguards and support features in networks and services it provides for agencies. GSA also provides emergency telecommunications for the special needs of agencies and helps agencies plan, obtain, and maintain continuity of telecommunications during wartime and non-wartime emergencies.

(b) *Policy.* Agencies shall use available GSA telecommunications systems and services to meet their NSEP requirements.

(c) *Procedures.* Before acquiring services or facilities to meet special NSEP requirements, agencies shall review GSA-provided services described in FIRMR Bulletin C-20. Agencies shall coordinate their special NSEP requirements with: General Services Administration, NSEP Division (KVN), 18th & F Streets, NW, Washington, DC 20405.

§ 201-24.107 Financial Management Systems Software (FMSS) Multiple Awards Schedule (MAS) Contracts

(a) The Office of Management and Budget (OMB) has established a Governmentwide FMSS program. To help agencies implement this program, GSA has established the mandatory FMSS MAS Contracts Program.

(b) The FMSS MAS contracts program is mandatory-for-use by executive agencies for the acquisition of commercial software for primary accounting systems and for the acquisition of services and support related to the implementation of such software.

(c) Subpart 201-39.8 provides policies and procedures for using the FMSS MAS contracts program.

Subpart 201-24.2—GSA Mandatory-for-Consideration Programs

§ 201-24.200 Scope of subpart.

This subpart describes GSA programs that are mandatory-for-consideration by agencies.

§ 201-24.201 Federal Software Exchange Program.

(a) *General.* (1) The Federal Software Exchange Program (FSEP) is administered by the National Technical Information Service of the Department of Commerce under an interagency agreement with GSA's Office of Technical Assistance. The program promotes the sharing of common-use software and related documentation.

(2) Part 201-21 requires agencies to report common-use software to the Federal Software Exchange Center (FSEC); FIRMR Bulletin C-12 contains additional information on the use of the FSEP.

(b) *Policy.* Before contracting for common-use software, agencies shall contact the FSEC or review the Federal Software Exchange Catalog to determine whether common-use software available from other agencies would be the most advantageous alternative for meeting the agency's requirements.

§ 201-24.202 Excess FIP Equipment Program.

(a) *General.* The GSA Excess FIP

Equipment Program facilitates the reuse of excess FIP equipment components that are not outdated and that have an original acquisition cost (OAC) of \$1 million or more. Part 201-23 and FIRMR Bulletin C-2 contain procedures for disposition and reuse of excess FIP equipment.

(b) *Policy.* Before contracting for FIP equipment, agencies shall review GSA's current Excess Equipment Availability Letter to determine whether the GSA Excess FIP Equipment Program has FIP equipment that would satisfy their requirements as the most advantageous alternative to the Government.

§ 201-24.203 Telecommunications assistance programs and services.

§ 201-24.203-1 Federal Secure Telephone Service (FSTS).

(a) *General.* FSTS is a worldwide secure voice service designed to protect sensitive and classified voice transmission.

(b) *Policy.* Agencies shall consider the use of FSTS to meet requirements for the transmission of sensitive or classified voice information.

(c) *Procedures.* Information, assistance, and guidance concerning the use of FSTS, including access key arrangements, are discussed in FIRMR Bulletin C-19.

§ 201-24.203-2 Information systems security (INFOSEC).

(a) *General.* GSA offers worldwide services in support of agencies' sensitive and classified information requirements. Services cover installation, maintenance, key distribution, design, engineering, and INFOSEC consulting. GSA also operates and maintains communications security (COMSEC) systems and services to meet the requirements of agencies.

(b) *Policy.* Agencies shall consider the use of GSA-provided INFOSEC services and programs and COMSEC support services to meet their requirements.

(c) *Procedures.* Procedures for obtaining security services are contained in FIRMR Bulletin C-19.

**SUBCHAPTER D—ACQUISITION OF FEDERAL INFORMATION PROCESSING (FIP)
RESOURCES BY CONTRACTING**

**PART 201-39—ACQUISITION OF FEDERAL
INFORMATION PROCESSING (FIP)
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Authority: 40 U.S.C. 486(c) and 751(f).

PART 201-39—ACQUISITION OF FEDERAL INFORMATION PROCESSING (FIP)

§ 201-39.000 Scope of part.

This part sets forth the unique rules that apply Government-wide to the acquisition of Federal information processing (FIP) resources by contracting.

§ 201-39.001 General.

(a) In addition to this part 201-39, contracting officers should review and be familiar with the policies and procedures contained in the complete FIRMR.

(b) To assist Federal agencies in preparing solicitations for FIP resources, the General Services Administration (GSA) makes available standard solicitations and other guidance. Copies may be obtained by contacting: GSA, Regulations Analysis Division (KAR), 18th and F Streets, NW, Washington, DC 20405. Acquisition guides may be obtained by contacting: GSA, Agency Liaison Division (KAL), 18th and F Streets, NW, Washington, DC 20405.

Subpart 201-39.1—Federal Information Resources Management Regulation (FIRMR) System

§ 201-39.100 Scope of subpart.

This subpart sets forth basic policies and general information pertaining to part 201-39 of the Federal Information Resources Management Regulation (FIRMR).

§ 201-39.101 Purpose, authority, applicability, and issuance.

§ 201-39.101-1 Purpose.

This part 201-39 sets forth FIRMR contracting policies and procedures in a single part organized for consistency with the Federal Acquisition Regulation (FAR). This part contains only those contracting policies and procedures that are unique to FIP resources.

§ 201-39.101-2 Authority.

This part 201-39 is prepared, issued, and maintained by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, as amended.

§ 201-39.101-3 Applicability.

(a) *Policies.* The FIRMR applies to—
(1) The acquisition, management, and use of FIP resources by Federal agencies.

(2) Any Federal agency solicitation or contract when either paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) applies:

(i) The solicitation or contract requires the delivery of FIP resources for use by a Federal agency or users designated by the agency.

(ii) The solicitation or contract explicitly requires the use by the contractor of FIP resources that are not incidental to the performance of the contract. FIP resources acquired by a contractor are incidental to the performance of a contract when: (A) None of the principal tasks of the contract depend directly on the use of the FIP resources; or

(B) The requirements of the contract do not have the effect of substantially restricting the contractor's discretion in the acquisition and management of FIP resources, whether the use of FIP resources is or is not specifically stated in the contract.

(iii) The solicitation or contract requires the performance of a service or the furnishing of a product that is performed or produced making significant use of FIP resources that are not incidental to the performance of the contract. Significant use of FIP resources means:

(A) The service or product of the contract could not reasonably be produced or performed without the use of FIP resources; and

(B) The dollar value of FIP resources expended by the contractor to perform the service or furnish the product is expected to exceed \$500,000 or 20 percent of the estimated cost of the contract, whichever amount is lower.

(3) The creation, maintenance, and use of records by Federal agencies.

(b) *Exceptions.*

(1) The FIRMR does not apply to the procurement of FIP resources—

(i) By the Central Intelligence Agency (CIA).

(ii) By the Department of Defense when the function, operation, or use of such resources—

(A) Involves intelligence activities, cryptologic activities related to national security, the command and control of military forces, or equipment that is an integral part of a weapon or weapons system; or

(B) Is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include FIP

resources used for routine administrative and business applications such as payroll, finance, logistics, and personnel management.

(2) The FIRMR does not apply to radar, sonar, radio, or television equipment, except that the FIRMR is used by GSA to implement Federal Telecommunications Standards for radio equipment.

(3) When both FIP and other resources are being acquired under the same solicitation or contract and the FIRMR applies to the solicitation or contract, the FIRMR applies only to the FIP resources.

(4) Where the value of the FIP resources to be delivered does not exceed \$500,000 and constitutes only a minimal dollar amount of the contract, or is of little consequence to the major purpose of the contract, the FIRMR does not apply.

(5) While the FIRMR may require an agency to include in Federal solicitations and contracts provisions and clauses that control the contractor's acquisition of FIP resources, the FIRMR does not apply to FIP resources acquired by a Federal contractor that are incidental to the performance of a contract.

(6) The FIRMR does not apply to the acquisition, management, and use of products containing embedded FIP equipment when: (i) the embedded FIP equipment would need to be substantially modified to be used other than as an integral part of the product; or (ii) the dollar value of the embedded FIP equipment is less than \$500,000 or less than 20 percent of the value of the product, whichever amount is lower. Embedded FIP equipment is FIP equipment that is an integral part of the product, where the principal function of the product is not the "automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. In an acquisition where multiple products are acquired, the exception applies to each discrete product.

(7) The FIRMR does not apply to the acquisition, management, and use of FIP resources that will be used in or as embedded FIP resources (equipment, software or supplies) in products excepted from FIRMR coverage under § 201-39.101-3(b)(6). This exception includes replacement or upgrades of the embedded FIP resources, regardless of the cost.

(c) *Contract clause.* The contracting officer should consider inserting a clause in solicitations and contracts substantially the same as the clause at § 201-39.5202-1, FIRMR Applicability, when the agency determines that part 201-39 does not apply to an acquisition for FIP resources.

§ 201-39.101-4 [Reserved]

§ 201-39.101-5 Arrangement of part.

For consistency with the FAR, part 201-39 is divided into 53 subparts consisting of sections and subsections. In the same manner in which each FAR part deals with a separate aspect of acquisition, the corresponding subpart of part 201-39 deals with that aspect of acquisition as it relates to FIP resources. For example, since FAR part 6 deals with general competition requirements, FIRMR subpart 201-39.6 sets forth unique policies and procedures applicable to competition requirements for FIP resources. If there is no need to supplement a particular FAR part, the corresponding subpart of part 201-39 is reserved.

§ 201-39.101-6 Copies.

(a) Copies of the complete FIRMR in looseleaf or annual bound versions may be purchased from: Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

(b) Contracting officers should contact the GPO, their agency liaison officer, or GSA (KAR) for ordering information.

§ 201-39.102 Relationship of acquisition regulations.

(a) This part 201-39 sets forth Governmentwide policies and procedures unique to the acquisition of FIP resources by contracting. It relies on the FAR for general policies and procedures to be used in acquiring these resources. The policies and procedures of this part 201-39 are in addition to, not in lieu of, the FAR policies and procedures, except when the FIRMR specifically requires its policies and procedures, and not those of the FAR, to be followed.

(b) Notwithstanding the fact that the FAR is for the use of executive agencies in the acquisition of supplies and services, Federal agencies not otherwise subject to the FAR shall use the FAR in conjunction with the FIRMR when acquiring FIP resources.

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§ 201-39.103 [Reserved]

§ 201-39.104 Deviations.

§ 201-39.104-1 Deviations from the FIRM.

(a) *Policy.* Unless precluded by law, executive order, or regulation, GSA may grant deviations, as defined in subpart 201-39.2, from part 201-39 when necessary to meet the specific needs and requirements of each agency. Class deviations (affecting more than one contract action) and individual deviations (affecting only one contract action) may be authorized by—

(1) The Commissioner, Information Resources Management Service, or

(2) The officials designated by the Commissioner for that purpose.

(b) *Procedures.*

(1) The agency head (or a designee) shall prescribe procedures for processing deviation requests.

(2) Each request for deviation shall explain the nature of and the reasons for the deviation.

(3) Agencies shall forward requests for deviations to: General Services Administration, Regulations Analysis Division (KAR), 18th & F Streets, NW, Washington, DC 20405.

§ 201-39.104-2 Deviations from the FAR.

Deviations from the FAR shall be accomplished in accordance with FAR subpart 1.4.

§ 201-39.105 [Reserved]

§ 201-39.106 Contracting authority and responsibilities.

§ 201-39.106-1 General.

(a) Notwithstanding FAR 1.601, authority and responsibility to contract for FIP resources is vested in the Administrator of General Services unless an exception in 40 U.S.C. 759(a)(3) applies. The Administrator of General Services, or a designee, authorizes agencies to contract for FIP resources by granting a delegation of procurement authority (DPA) to the agency designated senior official (DSO) when GSA determines that the DSO is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to fairly and effectively carry out procurements under GSA's authority. Such delegations are granted by one of the following methods:

(1) The regulatory delegation of GSA's exclusive procurement authority which allows Federal agencies to contract for certain types of FIP resources up to specified dollar amounts without obtaining a specific DPA;

(2) A specific agency delegation of GSA's exclusive procurement authority whereby the GSA Commissioner for Information Resources Management or a designee may authorize changes in the regulatory DPA for individual Federal agencies (or components thereof) on the basis of their ability to acquire, manage, and use FIP resources in accordance with FIRM policies and procedures; or

(3) A specific acquisition delegation of GSA's exclusive procurement authority provided to the agency as a result of the submission of an agency procurement request (APR) to GSA when acquisitions are not covered by either the regulatory or a specific agency DPA.

(b) The agency's DSO may redelegate GSA's exclusive authorities for FIP resources to qualified officials. However, such redelegation does not relieve the DSO of the responsibilities under 44 U.S.C. 3506 for the conduct of and accountability for acquisitions of FIP resources made under a DPA from GSA.

(c) Only a contracting officer may enter into and sign a contract on behalf of the Government. A DPA from GSA does not make the DSO a contracting officer. Contracting officers are appointed under procedures established by agency heads under FAR subpart 1.6.

(d) Additional policies and procedures related to delegations of procurement authority are addressed in part 201-20.

§ 201-39.106-2 Policy.

Before contracting for FIP resources, the contracting officer shall ensure that the agency's DSO has redelegated GSA's procurement authority to the contracting officer.

§ 201-39.106-3 Procedures.

The contracting officer shall consider this § 201-39.106, agency directives, and written instructions to the contracting officer issued under FAR 1.602-1 to ensure that the contracting officer is authorized to make the award.

§ 201-39.106-4 Contract clause.

(a) All solicitations and contracts for FIP resources subject to the FIRMR shall contain a clause identifying whether the contracting action is being conducted under the regulatory DPA, a specific agency DPA, or a specific acquisition DPA.

(b) If the contracting action is being conducted under a specific agency or specific acquisition DPA, the contract clause shall also include the GSA case number of the specific DPA.

(c) Accordingly, the contracting officer shall—

(1) Insert a clause substantially the same as the clause at § 201-39.5202-3, Procurement Authority, in each solicitation and contract for FIP resources; and

(2) Promptly issue an amendment to the solicitation modifying this clause if any of the facts set forth in it change prior to contract award.

Subpart 201-39.2—Definitions of Words and Terms

§ 201-39.200 Scope of subpart.

This subpart defines words and terms used in part 201-39.

§ 201-39.201 Definitions.

Designated senior official (DSO) means—

(a) The senior official designated by executive agencies pursuant to the Paperwork Reduction Act to be responsible for carrying out the agency's IRM functions (see 44 U.S.C. 3506); or

(b) The senior IRM official designated by the agency head for Federal agencies not subject to the Paperwork Reduction Act to be responsible for acquisitions of FIP resources made pursuant to a DPA.

Deviation means any one or a combination of the following:

(a) The issuance or use of a policy, procedure, practice, solicitation provision, contract clause, or method pertaining to the acquisition, management or use of Federal information processing resources that is inconsistent with the FIRMR.

(b) The omission or modification of any policy, procedure, practice, solicitation provision or contract clause required by the FIRMR.

(c) The authorization of lesser or greater limitations on the delegation, use, or application of any policy, procedure, solicitation provision, or contract clause prescribed by the FIRMR, except that this does not preclude an agency from setting delegation thresholds at more restrictive levels than those established by the FIRMR.

Federal information processing (FIP) resources means automatic data processing equipment (ADPE) as defined in Public Law 99-500 (40 U.S.C. 759(a)(2)), and set out in paragraphs (a) and (b) of this definition.

(a) Any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception, of data or information—

(1) by a Federal agency, or

(2) under a contract with a Federal agency which—

(i) requires the use of such equipment, or

(ii) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

(b) Such term includes—

(1) computers;

(2) ancillary equipment;

(3) software, firmware, and similar procedures;

(4) services, including support services; and

(5) related resources as defined by regulations issued by the Administrator for General Services.

(c) The term, FIP resources, includes FIP equipment, software, services, support services, maintenance, related supplies, and systems. These terms are limited by paragraphs (a) and (b) of the definition of FIP resources and are defined as follows:

(d) **FIP equipment** means any equipment or interconnected system or subsystems of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(e) **FIP maintenance** means those examination, testing, repair, or part

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replacement functions performed on FIP equipment or software.

(f) **FIP related supplies** means any consumable item designed specifically for use with FIP equipment, software, services, or support services.

(g) **FIP services** means any service, other than FIP support services, performed or furnished by using FIP equipment or software.

(h) **FIP software** means any software, including firmware, specifically designed to make use of and extend the capabilities of FIP equipment.

(i) **FIP support services** means any commercial nonpersonal services, including FIP maintenance, used in support of FIP equipment, software, or services.

(j) **FIP system** means any organized combination of FIP equipment, software, services, support services, or related supplies.

Lowest overall cost means the least expenditure of funds over the system life, price and other factors considered, including, but not necessarily limited to—

- (a) Prices for the FIP resources;
- (b) The present value adjustment, if used; and
- (c) The identifiable and quantifiable costs—

- (1) Directly related to the acquisition and use of the FIP resources;
- (2) Of conducting the contract action; and
- (3) Of other administrative efforts directly related to the acquisition process.

Most advantageous alternative means the alternative that provides the greatest value to the Government over the system life in terms of price or cost, quality, performance, and any other relevant factors.

Outdated FIP equipment means any FIP equipment over eight years old, based on the initial commercial installation date of that model of equipment, and that is no longer in current production.

Radar equipment means any radio detection device that provides information on range, azimuth, or elevation of objects.

Radio equipment means any equipment or interconnected system or subsystem of equipment (both transmission and reception) that is used to communicate over a distance by modulating and radiating electromagnetic

waves in space without artificial guide. This does not include such items as microwave, satellite, or cellular telephone equipment.

Sonar equipment means an apparatus that detects the presence and location of a submerged object by means of sonic, subsonic, or supersonic waves reflected back to it from the object.

Specific make and model specification means a description of the Government's requirement for FIP resources that is so restrictive that only a particular manufacturer's products will satisfy the Government's needs, regardless of the number of suppliers that may be able to furnish that manufacturer's products.

System life means a projection of the time period that begins with the installation of the FIP resource and ends when the agency's need for that resource has terminated.

Television equipment means any equipment (both transmission and reception) used for the conversion of transient visual images into electrical signals that can be transmitted by radio or wire to distant receivers where the signals can be reconverted to the original visual images. This does not include such items as monitors for computers or computer terminals or video conferencing equipment.

**Subparts 201-39.3 and 201-39.4
[Reserved]**

**Subpart 201-39.5—Publicizing
Contract Actions**

§ 201-39.500 Scope of subpart.

This subpart prescribes the unique policies and procedures for publicizing contract actions when acquiring FIP resources using the GSA nonmandatory schedule contracts.

**§ 201-39.501 Synopses of proposed
contract actions.**

§ 201-39.501-1 Policies.

(a) The contracting officer shall publicize the intent to place an order against a GSA nonmandatory contract by following the procedures of § 201-39.501-3 and FAR subpart 5.2.

(b) The contracting officer shall not use the exception to synopsis set forth at FAR

5.202(a)(11) when using GSA nonmandatory schedule contracts to acquire FIP resources.

§ 201-39.501-2 Exceptions.

(a) The contracting officer need not publicize the intent to place an order against a GSA nonmandatory contract when—

(1) The total value of the order is \$50,000 or less; or

(2) The order is for FIP resources that were previously specifically synopsized on a system life basis in a Commerce Business Daily (CBD) notice of intent in accordance with § 201-39.501-3 and FAR subpart 5.2.

(b) The contracting officer is not required to publish a second notice of a proposed contract action in accordance with FAR 5.203(a) when—

(1) A solicitation is being issued in accordance with § 201-39.803-3(b)(2)(iii); and

(2) The requirement was the subject of a previous CBD synopsis of intent accomplished in accordance with the procedures set forth in § 201-39.501-3 and FAR subpart 5.2.

§ 201-39.501-3 Procedures

The contracting officer shall use the following procedures when publicizing the intent to place an order against a GSA nonmandatory schedule contract:

(a) Before placing an order for FIP resources against a GSA nonmandatory schedule contract, the contracting officer shall furnish a synopsis to the CBD in accordance with FAR 5.207 and this § 201-39.501.

(b) Notwithstanding FAR 5.203(c), the synopsis shall be published in the CBD at least 15 calendar days before placing the order. In calculating the 15 calendar days for synopsizing, the first day shall be the actual date the synopsis appears in the CBD.

(c) Format Item 17 (DESCRIPTION) of the standard synopsis format in FAR 5.207 shall contain a description of the intended contract action to the extent necessary to obtain information to permit the analysis required by § 201-39.803. As a minimum, Format Item 17 shall contain the following information:

(1) An identification of the specific nonmandatory schedule contract intended to

be used.

(2) A description of the resources to be ordered, including, as applicable—

(i) The make and model of any FIP equipment to be ordered or maintained;

(ii) The name, functional description, and operating environment of any FIP software to be ordered;

(iii) The quantities, dates required, and period of performance;

(iv) The system life; and

(v) The type of support to be ordered.

(3) A request for pricing data.

(4) The following statement: "All responses from responsible sources will be fully considered. As a result of analyzing responses to this synopsis of intent, the contracting officer may determine that a solicitation will be issued. If a solicitation is issued, no additional synopsis will be published. Any such solicitation will be issued to the intended schedule vendor and all firms that respond to this synopsis of intent or otherwise request a copy of the solicitation."

Subpart 201-39.6—Competition Requirements

§ 201-39.600 Scope of subpart.

This subpart prescribes policies and procedures applicable to—

(a) The acquisition of FIP resources using specific make and model specifications; and

(b) The use of follow-on contracts to perpetuate outdated FIP equipment.

§ 201-39.601 Specific make and model specifications.

§ 201-39.601-1 Policy.

An acquisition that uses a specific make and model specification does not provide for full and open competition and must be justified and approved in accordance with FAR 6.303 and 6.304.

§ 201-39.601-2 Exception.

Subsection 201-39.601-1 does not apply when an order for FIP resources is placed against a GSA nonmandatory schedule contract and—

(a) The statement of work or requirements documentation prepared by the technical and requirements personnel

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describes the requirements with other than a specific make and model specification, notwithstanding the fact that when the synopsis appears in the Commerce Business Daily (CBD) and the order is placed, a specific make and model is cited; and

(b) The procedures of § 201-39.803 regarding use of GSA nonmandatory schedule contracts are followed.

§ 201-39.601-3 Authority.

When the FIP resources required to meet the needs of an agency can be satisfied only through the use of a specific make and model specification, the statutory authority to be cited in FAR 6.303-2(a)(4), in lieu of any statutory authority cited in accordance with FAR 6.302, is: 40 U.S.C. 759(g), as amended.

§ 201-39.602 Outdated FIP equipment.

§ 201-39.602-1 Policy.

The justification requirements of FAR 6.302-1(a)(2)(ii) shall not be used to perpetuate any contract for outdated FIP equipment or for FIP equipment to be used with FIP software that requires general redesign to satisfy mission needs.

§ 201-39.602-2 Exception.

An exception to § 201-39.602-1 may be invoked if the agency's DSO determines that such action will be in the Government's best interest.

Subpart 201-39.7—[Reserved]

**Subpart 201-39.8—Required
Sources of Supplies and Services**

§ 201-39.800 Scope of subpart.

This subpart prescribes the policies and procedures applicable to the acquisition of FIP resources using GSA mandatory and nonmandatory sources of supply.

**§ 201-39.801 Ordering FIP resources
from Federal Supply Schedules.**

§ 201-39.801-1 General.

GSA directs and manages both the Federal Supply Schedules program and the GSA nonmandatory schedule contracts for FIP resources. While most FIP resources available under these programs are covered by the GSA nonmandatory schedule contracts for FIP resources, the Federal Supply Schedules also contain some resources that fall within the definition of FIP resources. Use of the Federal Supply Schedules program is covered by FAR 8.4 and use of the GSA

nonmandatory schedule contracts for FIP resources is covered by this subpart 201-39.8.

§ 201-39.801-2 Policy.

The procedures of FAR 8.4 shall be followed when an order for FIP resources is placed against a GSA Federal Supply Schedule.

**§ 201-39.802 Purchase of
Telecommunications services (POTS)
contracts.**

§ 201-39.802-1 General.

(a) GSA has established nonmandatory POTS contracts to provide an optional source for telecommunications supplies and services, including purchase, installation, maintenance, repair, de-installation, and relocation of both contractor-provided and Government-owned telephone equipment, at locations throughout the country.

(b) The POTS contracts are available for use by all Federal agencies.

(c) Federal agencies may obtain information and assistance concerning the use of POTS contracts from: GSA, Technical Contract Management Division (KVT), 18th and F Streets, NW., Washington, DC 20405.

§ 201-39.802-2 Policies.

(a) Federal agencies may use POTS contracts when the requirement are within the scope of the POTS contracts.

(b) Use of the POTS contracts is a competitive procedure.

(c) Orders issued under a POTS contract are not subject to the publication requirements in FAR Part 5.

§ 201-39.802-3 Procedures.

Procedures for using the POTS program are contained in FIRMR Bulletin C-21.

**§ 201-39.803 GSA nonmandatory
schedule contracts for FIP resources.**

§ 201-39.803-1 General.

(a) GSA nonmandatory schedule contracts for FIP resources, managed by GSA's Information Resources Management Service, provide Federal agencies with a simplified process for obtaining these resources. GSA awards such contracts to many different vendors and each contract establishes terms, conditions, and prices for stated periods of time. These contracts are not part of the Federal Supply Service (FSS) Schedule program covered in FAR subpart 8.4 and they are not mandatory sources of supply.

(b) Agencies should use GSA

nonmandatory schedule contracts for FIP resources when the contracting officer determines that placing an order under a GSA nonmandatory schedule contract would result in a lower overall cost than other contracting methods, such as issuing a solicitation, using small purchase procedures, using a nonmandatory agency contract, or using other nonmandatory GSA programs.

§ 201-39.803-2 Policy.

Use of GSA nonmandatory schedule contracts is a competitive procedure when—

- (a) It results in the lowest overall cost alternative to meet the needs of the Government; and
- (b) The procedures of this section are followed.

§ 201-39.803-3 Procedures.

(a) Prior to selecting a GSA nonmandatory schedule contract and placing an order or, if applicable, publishing a synopsis of intent to place an order, the agency shall—

- (1) Justify any restrictive requirement (e.g., an "all or none" requirement or a requirement for "only new" equipment); and
- (2) Consider the offerings of a reasonable number of nonmandatory schedule contractors.

(b) The contracting officer shall consider all responses received as a result of the CBD notice and then determine whether to order from a GSA nonmandatory schedule contract or issue a solicitation. Accordingly, the contracting officer shall take one of the following actions:

- (1) When no responses are received, document the contract file with the results of the CBD synopsis and an analysis indicating that an order placed against the synopsisized nonmandatory schedule contract provides the lowest overall cost alternative to meet the Government's needs.
- (2) When a response to the CBD notice is received from either a responsible vendor that does not have a GSA nonmandatory schedule contract or a GSA nonmandatory schedule contractor (expressing an interest either on or off schedule) for items that may meet the user's requirement, the contracting officer shall take one of the following actions:
 - (i) Document the contract file with an analysis indicating that the respondent's

items would not meet the requirement or that the synopsisized GSA nonmandatory schedule contract items provides the lowest overall cost alternative to meet the Government's needs and place an order against the synopsisized GSA nonmandatory schedule contract;

(ii) Document the contract file with an analysis indicating that a responding contractor's GSA nonmandatory schedule contract offering provides the lowest overall cost alternative to meet the Government's needs and place an order against that GSA nonmandatory schedule contract; or

(iii) Document the contract file with an analysis indicating that ordering from a GSA nonmandatory schedule contract may not result in the lowest overall cost alternative to meet the Government's needs. In this case, the contracting officer may elect to issue a solicitation. In such cases, the contracting officer shall take the following actions:

- (A) Ensure that the solicitation contains terms and conditions substantially the same as those of the GSA solicitation for nonmandatory schedule contracts that resulted in the synopsisized schedule contract; and
- (B) Provide the solicitation to those potential offerors responding to the CBD synopsis of intent; the vendor whose GSA nonmandatory schedule contract was the subject of the synopsis; and any other potential offerors that specifically express an interest.

(c) If the contracting officer places an order in accordance with § 201-39.803-3(b)(2)(i) or (b)(2)(ii), the contracting officer shall promptly provide written notification of award to the synopsisized schedule vendor and to all parties responding in writing to the CBD notice.

(d) Requirements or orders shall not be fragmented in order to circumvent the applicable MOL.

§ 201-39.804 Financial Management Systems Software (FMSS) Mandatory Multiple Award Schedule (MAS) Contracts Program.

§ 201-39.804-1 General.

(a) The Office of Management and Budget (OMB) has established a

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Governmentwide financial management systems software program. To help agencies implement this program, GSA has established the mandatory FMSS MAS contracts program.

(b) Federal agencies may obtain information and assistance concerning the use of the FMSS MAS contracts program from: General Services Administration, ADP Systems Procurement Branch (KECP), FMSS Contracting Officer, 18th and F Streets, NW, Washington, DC 20405.

(c) OMB Circular No. A-127, "Financial Management Systems," provides further policy direction regarding the FMSS program.

§ 201-39.804-2 Policy.

Executive agencies shall use the FMSS MAS contracts program for the acquisition of commercial software for primary accounting systems and for the acquisition of services and support related to the implementation of such software.

§ 201-39.804-3 Exceptions.

(a) If an executive agency holds a licensing agreement for a software package that is available on the FMSS MAS contracts, and the package was obtained under a contract awarded before the award of the FMSS MAS contracts, the agency's use of the FMSS MAS contracts program is optional for the acquisition of services and support related to the implementation of that package until the previous non-MAS contract expires.

(b) Use of the FMSS MAS contracts program by Federal agencies that are not executive agencies is optional and is subject to the FMSS contractor accepting the order.

(c) An executive agency shall obtain a waiver from GSA if it determines that its requirements for financial management systems software cannot be satisfied through use of the FMSS MAS contracts program.

(1) The request for a waiver shall contain the following information:

(i) A description of the agency's requirements; (ii) The reasons the FMSS MAS contracts program does not satisfy the requirements; and

(iii) A description of how the agency proposes to satisfy its needs for financial management system software.

(2) Agencies shall send waiver requests to GSA at the address in § 201-39.804-1(b).

(3) If a waiver is obtained from GSA, a deviation from the FIRM is not required.

§ 201-39.804-4 Procedures.

(a) The contracting officer shall announce the agency's requirements in a letter of interest (LOI) to all contractors participating in the FMSS MAS contracts program.

(b) At the time of issuance, the contracting officer shall provide a copy of the LOI to GSA at the address in § 201-39.804-1(b) and to OMB at the following address: Office of Management and Budget, Chief Financial Officer, 725 17th Street, NW, Room 10235, Washington, DC 20503.

(c) The LOI shall—

(1) Contain sufficient information to enable a competitive acquisition under the FMSS MAS contracts program;

(2) Include instructions to the FMSS MAS contractors for responding to the LOI; and

(3) Include evaluation and award factors.

(d) The agency shall conduct an analysis of the offerings of the FMSS MAS contractors and issue a delivery order to the contractor that provides the most advantageous alternative to the Government.

(e) The contracting officer may issue single or multiple delivery orders to satisfy the total requirement.

(f) The contracting officer shall provide a copy of each delivery order, or modification thereto, to OMB at the address shown in subparagraph (b) of this section and to GSA at the address in § 201-39.804-1(b).

Subpart 201-39.9—[Reserved]

**Subpart 201-39.10—Specifications,
Standards, and other Purchase
Descriptions**

§ 201-39.1000 Scope of subpart.

This subpart prescribes policies and procedures for using specifications, standards, and other purchase descriptions in acquiring FIP resources.

**§ 201-39.1001 Security and privacy
specifications.**

§ 201-39.1001-1 Security specifications.

Specifications for security of FIP resources

shall include, as appropriate:

- (a) Agency rules of conduct that a contractor shall be required to follow.
 - (b) A list of the anticipated threats and hazards that the contractor must guard against.
 - (c) A description of the safeguards that the contractor must specifically provide.
 - (d) The security standards applicable to the contract.
 - (e) A description of the test methods, procedures, criteria, and inspection system necessary to verify and monitor the operation of the safeguards during contract performance and to discover and counter any new threats or hazards.
 - (f) A description of the procedures for periodically assessing the security risks involved.
 - (g) A description of the personnel security requirements.
 - (h) Consistent with the guidelines for Federal computer security training issued by the National Institute of Standards and Technology (NIST) and regulations issued by the Office of Personnel Management (OPM), a description of the security training that the contractor is required to provide to its employees.
 - (i) Consistent with the guidelines issued by the Office of Management and Budget (OMB) in OMB Bulletin 88-16, a description of the plan the contractor must develop or follow to provide for the security and privacy of FIP resources the contractor is required to operate.
- § 201-39.1001-2 Privacy specifications.**
- (a) *Applicability.* This subsection is applicable to executive agencies that are subject to the Privacy Act of 1974 (5 U.S.C. 552a).
 - (b) *Procedures.* Specifications for the design, development, or operation of a system of records using commercial FIP services or support services shall include the following:
 - (1) Agency rules of conduct that the contractor and the contractor's employees shall be required to follow.
 - (2) A list of the anticipated threats and hazards that the contractor must guard against.
 - (3) A description of the safeguards that

the contractor must specifically provide.

- (4) Requirements for a program of Government inspection during performance of the contract that will ensure the continued efficacy and efficiency of safeguards and the discovery and countering of new threats and hazards.

§ 201-39.1001-3 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause at § 201-39.5202-5, Privacy or Security Safeguards, in solicitations and contracts—

- (a) Requiring security of FIP resources.
- (b) For the design, development, or operation of a system of records using commercial FIP services or support services.

§ 201-39.1002 Federal standards.

§ 201-39.1002-1 General.

GSA publishes a handbook titled "Federal ADP and Telecommunications Standards Index" providing guidance to agencies on the use of Federal standards. The index also provides optional terminology that may be used to incorporate standards in solicitations and a "Standards Checklist" that can be included in the solicitation to incorporate applicable Federal standards. Copies of the index can be purchased from: U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402.

§ 201-39.1002-2 Policy.

The contracting officer shall include in solicitations terminology to incorporate each standard that is applicable to the FIP resources being acquired.

§ 201-39.1002-3 Procedures.

The contracting officer shall use one or a combination of the following methods to implement standards in solicitations:

- (a) Include in the solicitation the full text of the terminology contained in the index for each applicable standard.
- (b) Incorporate in the solicitation the applicable terminology by reference to the index.
- (c) For each applicable standard, include the full text of the terminology as developed by the agency.

§ 201-39.1002-4 Solicitation provision.

If any of the terminology to incorporate standards in solicitations is incorporated by

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reference, the contracting officer shall insert in the solicitation the provision at § 201-39.5202-2, Availability of the "Federal ADP and Telecommunications Standards Index."

§ 201-39.1003 Specifications for outdated FIP equipment.

The contracting officer shall not include specifications for outdated FIP equipment in a solicitation unless—

(a) The agency's DSO determines that such action will be in the Government's best interest; or

(b) A determination has been made in accordance with § 201-39.602

**Subparts 201-39.11 and 201-39.12
[Reserved]**

**Subpart 201-39.13—Small
Purchase and Other Simplified
Purchase Procedures**

§ 201-39.1300 Scope of subpart.

This subpart prescribes policies and procedures for acquiring from commercial sources FIP resources whose aggregate amount does not exceed the small purchase threshold of FAR part 13.

§ 201-39.1301 Policy.

When requirements for FIP resources are to be satisfied through the use of GSA sources of supply as set forth in subpart 201-39.8, the policies and procedures of FAR part 13 do not apply.

**Subpart 201-39.14—Sealed
Bidding**

§ 201-39.1400 Scope of subpart.

This subpart prescribes policies and procedures governing contracting for FIP resources by sealed bidding.

§ 201-39.1401 General.

This subpart requires the contracting officer to select the bid that is most advantageous to the Government considering options, acquisition methods, present value discount factors, and other price-related factors. Therefore, contracting officers

should consider the factors associated with each acquisition of FIP resources in order to select the method of contracting that will best accommodate this requirement.

§ 201-39.1402 Price-related factors.

§ 201-39.1402-1 Policies.

(a) In addition to the bid price for the basic and all optional quantities and contract periods and optional FIP resources; and the price-related factors set forth in FAR 14.201-8, sealed bid solicitations for FIP resources shall be structured to require consideration of the following factors, as applicable, in order to determine which bid is most advantageous to the Government.

(1) Support and in-house costs over the system life for installing, operating, and disposing, where quantifiable and when these costs may differ based on offers received.

(2) Any costs of conversion that can be stated in dollars, as well as other costs directly related to converting from installed to augmentation or replacement FIP resources. However, the costs associated with the following shall not be included:

(i) Conversion of existing software and data bases that are to be redesigned regardless of whether or not augmentation or replacement FIP resources are acquired. (ii) Purging duplicate or obsolete software, data bases, and files.

(iii) Development of documentation for existing application software.

(iv) Improvements in management and operating procedures.

(b) When payments are expected to vary among the alternatives being considered, or where payments will be made over an extended period, agencies should adjust prices and costs to present value and apply the results in source selection. Agencies should follow the guidance in OMB Circular A-94 regarding present value calculations.

§ 201-39.1402-2 Exception.

Agencies are permitted to award on the basis of the lowest offered purchase price when—

(a) The only acquisition method to be used is purchase;

(b) The purchase price of each item being

acquired does not exceed \$25,000; and

(c) The total purchase price of all the FIP resources to be included in the contract does not exceed \$300,000.

§ 201-39.1403 Solicitation.

(a) The solicitation shall state the means of evaluating all acquisition methods included in the solicitation.

(b) If a present-value adjustment is to be used, the solicitation shall state the methodology and discount rate that will be applied in the evaluation process.

§ 201-39.1404 Award.

The contracting officer shall not award a contract providing for the delivery of outdated FIP equipment unless—

(a) The agency's DSO determines that such action will be in the Government's best interest; or

(b) A determination has been made in accordance with § 201-39.602 or § 201-39.1003.

Subpart 201-39.15—Contracting By Negotiation

§ 201-39.1500 Scope of subpart.

This subpart prescribes policies and procedures governing contracting for FIP resources by negotiation.

§ 201-39.1501 Evaluation factors.

§ 201-39.1501-1 Policies.

(a) In addition to the factors set forth in FAR 15.605, the contracting officer shall evaluate total cost, including the following factors:

(1) All prices for FIP resources including the basic and optional quantities, basic and optional contract periods, and optional FIP resources.

(2) Other support and in-house costs over the system life for installing, operating, and disposing, where quantifiable and when these costs may differ based on offers received.

(3) Any costs of conversion that can be stated in dollars, as well as other costs directly related to converting from installed to augmentation or replacement FIP resources. However, the costs associated with the following shall not be included:

(i) Conversion of existing software and

data bases that are to be redesigned regardless of whether or not augmentation or replacement FIP resources are acquired.

(ii) Purging duplicate or obsolete software, data bases, and files.

(iii) Development of documentation for existing application software.

(iv) Improvements in management and operating procedures.

(b) When payments are expected to vary among the alternatives being considered, or where payments will be made over an extended period, agencies should adjust prices and costs to present value and apply the results in source selection. Agencies should follow the guidance in OMB Circular A-94 regarding present value calculations.

§ 201-39.1501-2 Exception.

Agencies are permitted to award on the basis of the lowest offered purchase price when—

(a) The only acquisition method being solicited is purchase;

(b) The purchase price of each item being acquired does not exceed \$25,000; and

(c) The total purchase price of all of the FIP resources to be included in the contract does not exceed \$300,000.

§ 201-39.1502 Solicitation.

(a) The solicitation shall state the means of evaluating all acquisition methods included in the solicitation.

(b) If a present-value adjustment is to be used, the solicitation shall state the methodology and discount rate that will be applied in the evaluation process.

§ 201-39.1503 Award.

The contracting officer shall not award a contract providing for the delivery of outdated FIP equipment unless—

(a) The agency's DSO determines that such action will be in the Government's best interest; or

(b) A determination has been made in accordance with § 201-39.602 or § 201-39.1003.

Subpart 201-39.16—[Reserved]

Subpart 201-39.17—Special Contracting Methods

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§ 201-39.1700 Scope of subpart.

This subpart prescribes policies and procedures for using options in acquiring FIP resources.

§ 201-39.1701 Options.

§ 201-39.1701-1 General.

The use of options may be appropriate in FIP resources acquisitions because—

(a) The FIRM requires agencies to determine a system life for each FIP resource requirement and to evaluate costs over the system life;

(b) Funding is normally not available at the time of award for the entire system life; and

(c) Soliciting and evaluating optional quantities, optional contract periods, and optional FIP resources can be an effective method to achieve competition for the options and to prevent the possibility of a contractor "buying-in."

§ 201-39.1701-2 Applicability.

Except as set forth below, the policies and procedures of FAR subpart 17.2 shall apply to the acquisition of FIP resources, notwithstanding the language in FAR 17.200.

§ 201-39.1701-3 Policy.

Notwithstanding the language in FAR 17.202, a contract for FIP resources with options to extend the contract period of performance, or to acquire additional quantities or optional FIP resources may be used when—

(a) The Government has requirements for the acquisition of FIP resources extending beyond the basic contract period;

(b) Funds are not available for the entire system life, but a reasonable certainty exists that they will be available in the future; or

(c) Competition for the additional periods, quantities or optional FIP resources is impracticable once the contract is awarded.

§ 201-39.1701-4 Contracts.

Notwithstanding the language in FAR 17.204(e), the total of the basic and option periods for contracts not subject to the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), as amended, may exceed 5 years (see FAR 22.10). However, statutes applicable to various classes of contracts may place additional restrictions on the length of contracts.

§ 201-39.1701-5 Documentation.

Any justifications and approvals or determinations and findings required by subpart 201-39.6 or FAR part 6 shall specify both the basic requirement and all options.

§ 201-39.1701-6 Evaluation.

Notwithstanding the language in FAR 17.206, the contracting officer shall consider all options in the award evaluation.

§ 201-39.1701-7 [Reserved]

§ 201-39.1701-8 Solicitation provision and contract clauses.

In lieu of the solicitation provisions and contract clauses prescriptions set forth in FAR 17.208, the contracting officer shall insert the following in solicitations and contracts for FIP resources that contain options—

(a) A provision substantially the same as the provision at § 201-39.5202-4, Evaluation of Options - FIP Resources, in the solicitation;

(b) A clause substantially the same as the clause at FAR 52.217-6, Option for Increased Quantity, in the solicitation and contract; and

(c) A clause substantially the same as the clause at FAR 52.217-9, Option to Extend the Term of the Contract, in the solicitation and contract.

**Subparts 201-39.18 through
201-39.32 [Reserved]**

**Subpart 201-39.33—Protests,
Disputes, and Appeals**

§ 201-39.3300 Scope of subpart.

This subpart prescribes policies and procedures applicable to protests concerning FIP resource acquisitions filed with the GSA Board of Contract Appeals (GSBCA).

§ 201-39.3301 General.

Under Public Law 98-369, as amended (40 U.S.C. 759(f)), the GSBCA is authorized to hear and decide protests by interested parties involving acquisitions of FIP resources by Federal agencies subject to section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C.

759), including acquisitions subject to GSA delegations of procurement authority.

§ 201-39.3302 Applicability.

This subpart is applicable to all Federal agencies.

§ 201-39.3303 Policy.

All Federal agencies shall follow the GSBICA "Rules of Procedure" in 48 CFR chapter 61.

§ 201-39.3304 Procedures.

§ 201-39.3304-1 Protest notice.

§ 201-39.3304-1 Protest notice.

Within one working day after receiving a copy of the protest, the contracting officer shall give oral or written notice of the protest to: General Services Administration, Acquisition Reviews Division (KAA), 18th and F Streets, NW, Washington, DC 20405, telephone (202) 501-1566. If the protest involves an acquisition issued under a specific acquisition delegation of procurement authority (DPA), the DPA number shall be provided to GSA with the notice.

§ 201-39.5202-1 FIRMR Applicability.

As prescribed in § 201-39.101-3(c), insert a clause substantially the same as the following in solicitations and contracts:

FIRMR APPLICABILITY (OCT 90 FIRMR)

This solicitation/contract requires the use or delivery of Federal information processing resources but the agency has determined that FIRMR part 201-39 does not apply based on the exception set forth in § 201-39.101-3(b)

*

(End of clause)

* Insert the specific sub-paragraph number(s) of the applicable exception.

§ 201-39.5202-2 Availability of the "Federal ADP and Telecommunications Standards Index."

As prescribed in § 201-39.1002-4, insert the following provision in the solicitation:

AVAILABILITY OF THE "FEDERAL ADP AND TELECOMMUNICATIONS STANDARDS INDEX" (OCT 90 FIRMR)

Copies of the "Federal ADP and Telecommunications Standards Index" can be

purchased from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402.

(End of provision)

§ 201-39.5202-3 Procurement authority.

As prescribed in § 201-39.106-4, insert a clause substantially the same as the following in solicitations and contracts:

PROCUREMENT AUTHORITY (OCT 90 FIRMR)

This acquisition is being conducted under * _____ delegation of GSA's exclusive procurement authority for FIP resources.

The specific GSA DPA case number is **

(End of provision)

* Insert one of the following phrases:

- (1) "the regulatory;"
- (2) "a specific agency;" or
- (3) "a specific acquisition."

** Insert one of the following:

- (1) If the acquisition is being conducted under the regulatory delegation, insert "not applicable."
- (2) If the acquisition is being conducted under a specific agency delegation or a specific acquisition delegation, insert the case number as provided in GSA's letter delegating the specific procurement authority (e.g., KMA-88-9999).

§ 201-39.5202-4 Evaluation of options - FIP resources.

As prescribed in § 201-39.1701-8(a), insert a provision substantially the same as the following in the solicitation:

EVALUATION OF OPTIONS - FIP RESOURCES (OCT 90 FIRMR)

(a) The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. These prices will be adjusted by the applicable discount factors shown in * of the solicitation. Evaluation of options will not obligate the Government to exercise the options. Offers containing any charges for failure to exercise any option will be rejected.

(b) Selection of an offer will be made on the basis of the most advantageous

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alternative to the Government provided that the contract prices reasonably represent the value of bona fide requirements for each fiscal year. This determination with respect to contract prices will be made after consideration of such factors as commercial or catalog prices for short-term leases, offeror system startup expenses, multiyear price protection, assured system life availability of equipment, software, and vendor support. If a determination is made that an offer does not meet these criteria, that offer cannot be accepted for award.

(End of provision)

* Insert one of the following:

(1) If a present-value adjustment is being used, indicate the location in the solicitation where any applicable discount factors and contemplated payment schedule are specified; or

(2) If a present-value adjustment is not being used, insert "Not Applicable."

§ 201-39.5202-5 Privacy or security safeguards.

As prescribed in § 201-39.1001-3, insert a clause substantially the same as the following clause in solicitations and contracts:

**PRIVACY OR SECURITY SAFEGUARDS
(OCT 90 FIRMR)**

(a) The details of any safeguards the contractor may design or develop under this contract are the property of the Government and shall not be published or disclosed in any manner without the contracting officer's express written consent.

(b) The details of any safeguards that may be revealed to the contractor by the Government in the course of performance under this contract shall not be published or disclosed in any manner without the contracting officer's express written consent.

(c) The Government shall be afforded full, free, and uninhibited access to all facilities, installations, technical capabilities, operations, documentation, records, and data bases for the purpose of carrying out a program of inspection to ensure continued efficacy and efficiency of safeguards against threats and hazards to data security, integrity, and confidentiality.

(d) If new or unanticipated threats or hazards are discovered by either the Government or the contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party. Mutual agreement shall then be reached on changes or corrections to existing safeguards or institution of new safeguards, with final determination of appropriateness being made by the Government. The Government's liability is limited to an equitable adjustment of cost for such changes or corrections, and the Government shall not be liable for claims of loss of business, damage to reputation, or damages of any other kind arising from discovery of new or unanticipated threats or hazards, or any public or private disclosure thereof.

(End of clause)

§ 201-39.5202-6 Warranty exclusion and limitation of damages.

As prescribed in § 201-39.4601, insert the following clause in the solicitations and contracts.

**WARRANTY EXCLUSION AND
LIMITATION OF DAMAGES (OCT 90
FIRMR)**

Except as expressly set forth in writing in this agreement and except for the implied warranty of merchantability, there are no warranties expressed or implied.

In no event will the contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, section 2-715, in effect in the District of Columbia as of January 1, 1973, i.e.—

Consequential damages resulting from the seller's breach include—

(a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

(End of clause)

Subpart 201-39.53—[Reserved]

AMENDMENTS AND INTERIM RULES
FIRMR

<u>Amendment Number</u>	<u>Date Signed</u>	<u>Title</u>
1	10/18/90	Implementation of the FIRMR Improvement Project
2	10/07/94	Amendment of Miscellaneous FIRMR Provisions
3	08/15/94	Amendment of FIRMR Provisions Relating to FIRMR Applicability, FIRMR Bulletins, and Present Value Analysis

<u>Interim Rule Number</u>		
1	10/15/93	Mandatory requirement for agencies to purchase energy efficient computer equipment
2	10/11/94	Revises policies regarding delegations of procurement authority from GSA for the acquisition of Federal information processing (FIP)

